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The Govt. of India Act  
&  
Govt. Reports  
1920



# The Govt. of India Act 1919 Rules Thereunder & Govt. Reports, 1920

EDITED BY  
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Published by  
N. N. MITTER  
ANNUAL REGISTER OFFICE  
SIBPUR, CALCUTTA,  
1921

PRINTED & PUBLISHED BY N. N. MITTER, AT THE "BELA PRESS"  
*92, Khetter Banerji Lane, Sibpur, Calcutta,*

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# The Royal Proclamation On The Reforms Act 1919

GEORGE, THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the Dominions beyond the seas, King, Defender of the Faith, Emperor of India.

*TO MY VICEROY AND GOVERNOR-GENERAL,  
TO THE PRINCES OF INDIAN STATES AND  
TO ALL MY SUBJECTS IN INDIA OF WHATSOEVER  
RACE OR CREED,  
GREETING—*

1. Another epoch has been reached to-day in the Council of India. I have given my Royal Assent to an Act which will take its place among the great historic measures passed by the Parliament of this Realm for the Government of India and the greater contentment of her people. The Act of seventeen hundred and seventy-three and seventeen hundred and eighty-four were designed to establish a regular system of administration and justice under the Honourable East India Company. The Act of eighteen hundred and thirty three opened the door for Indians to public office and employment. The Act of eighteen hundred and fifty-eight transferred the administration from the Company to the Crown and laid the foundations of public life which exist in India to-day. The Act of eighteen hundred and sixty-one sowed the seed of representative institutions and the seed was quickened into life by the Act of nineteen hundred and nine. The Act which has now become law entrusts elected representatives of the people with a definite share in Government and points the way to full representative Government hereafter. If, as I confidently hope, the policy which the act inaugurates should achieve its purpose, the results will be momentous in the story of human progress ; and it is timely and fitting that I should invite you to-day to consider the past and to join me in my hopes of the future.

2. Ever since the welfare of India was confided to us, it has been held as a sacred trust by our Royal House and Line. In

eighteen hundred and fifty-eight, QUEEN VICTORIA of revered memory solemnly declared herself bound to her Indian subjects by the same obligations of duty as to all her other subjects ; and she assured them religious freedom and the equal and impartial protection of law. In his message to the Indian people in nineteen hundred and three my dear father KING EDWARD the Seventh announced his determination to maintain unimpaired the same principles of humane and equitable administration. Again, in his proclamation of nineteen hundred and eight, he renewed the assurances which had been given fifty years before and surveyed the progress which they had inspired. On my accession to the throne in nineteen hundred and ten, I sent a message to the Princes and peoples of India acknowledging their loyalty and homage and promising that the prosperity and happiness of India should always be to me of the highest interest and concern. In the following year I visited India with the Queen Empress and testified my sympathy for her people and my desire for their well-being.

3. While these are the sentiments of affection and devotion by which I and my predecessors have been animated, the Parliament and the People of this Realm and my officers in India have been equally zealous for the moral and material advancement of India. We have endeavoured to give to her people the many blessings which Providence has bestowed upon ourselves. But there is one gift which yet remains and without which the progress of a country cannot be consummated: the right of her people to direct her affairs and to safeguard her interests. The defence of India against foreign aggression is a duty of common Imperial interest and pride. The control of her domestic concerns is a burden which India may legitimately aspire to taking upon her own shoulders. The burden is too heavy to be borne in full until time and experience have brought the necessary strength ; but opportunity will now be given for experience to grow and for responsibility to increase with the capacity for its fulfilment.

4. I have watched with understanding and sympathy the growing desire of my Indian people for representative institutions. Starting from small beginning this ambition has steadily strengthened its hold upon the intelligence of the country. It has pursued its course along constitutional channels with sincerity and courage. It has survived the discredit which at times and in places lawless men sought to cast upon it by acts of violence committed under the guise of patriotism. It has been stirred to more vigorous life by the ideals for which the British Commonwealth fought in the Great War, and it claims support in the part which India has taken

in our common struggles, anxieties and victories. In truth the desire after political responsibility has its source at the roots of the British connection with India. It has sprung inevitably from the deeper and wider studies of human thought and history, which that connection has opened to the Indian people. Without it the work of the British in India would have been incomplete. It was therefore with a wise judgment that the beginning of representative institutions were laid many years ago. This scope has been extended stage by stage until there now lies before us a definite step on the road to responsible Government.

5. With the same sympathy and with redoubled interest I shall watch the progress along this road. The path will not be easy and in marching towards the goal there will be need of perseverance and of mutual forbearance between all sections and races of my people in India. I am confident that those high qualities will be forthcoming. I rely on the new popular assemblies to interpret wisely the wishes of those whom they represent and not to forget the interests of the masses who cannot yet be admitted to the franchise. I rely on the Leaders of the people, the ministers of the future, to face responsibility and endure to sacrifice much for the common interest of the State, remembering that true patriotism transcends party and communal boundaries; and while retaining the confidence of the legislatures, to co-operate with my officers for the common good in sinking unessential differences and in maintaining the essential standards of a just and generous Government. Equally do I rely on my officers to respect their new colleagues and to work with them in harmony and kindness; to assist the people and their representatives in an orderly advance towards free institutions: and to find in these new tasks a fresh opportunity to fulfil as in the past their highest purpose of faithful service to my people.

6. It is my earnest desire at this time that so far possible any trace of bitterness between my people and those who are responsible for my Government should be obliterated. Let those who in their eagerness for political progress have broken the law in the past respect it in future. Let it become possible for those who are charged with the maintenance of peaceful and orderly Government to forget extravagances they have had to curb. A new era is opening. Let it begin with a common determination among my people and my officers to work together for a common purpose. Therefore I direct my Viceroy to exercise in my name and on my behalf my **Royal Clemency** to political offenders in the fullest measure which in his judgment is compatible with public safety.

I desire him to extend it on this condition to persons who for offences against the State or under any special or emergency legislation are suffering from imprisonment or restrictions upon their liberty. I trust that this leniency will be justified by the future conduct of those whom it benefits and that all my subjects will so demean themselves as to render it unnecessary to enforce the laws for such offences hereafter.

7. Simultaneously with the new constitution in British India, I have gladly assented to the establishment of a Chamber of Princes. I trust that its counsels may be fruitful of lasting good to the Princes and States themselves, may advance the interests which are common to their territories and British India, and may be to the advantage of the Empire as a whole. I take the occasion again to assure the Princes of India of my determination ever to maintain unimpaired their privileges, rights and dignities.

8. It is my intention to send my dear son, the Prince of Wales, to India by next winter to inaugurate on my behalf the new Chamber of Princes and the new constitution in British India. May he find mutual goodwill and confidence prevailing among those on whom will rest the future service of the country, so that success may crown their labours and progress and enlightenment attend their administration. And with all my people I pray to Almighty God that by His wisdom and under His guidance India may be led to greater prosperity and contentment and may grow to the fullness of political freedom.

*December the Twenty-third, Nineteen-hundred and Nineteen.*

# Royal Instruction

## To Provincial Governors

The following are the terms of the instruction issued under the Royal Sign Manual to the Governor or Acting Governor for the time being of each Governor of a Province.

*December 1920*

GEORGE, R. I.

“Whereas by the Government of India Act provision has been made for the gradual development of Self-Governing institutions in British India with a view to the progressive realisation of responsible Government in that country as an integral part of our Empire,

“And Whereas it is our will and pleasure that in the execution of the office of Governor in and over the Presidency of... .. you shall further the purposes of the said Act to the end that the institutions and methods of Government therein provided shall be laid upon the best and surest foundations, that the people of the said Presidency shall acquire such habits of political action and respect such conventions as will best and soonest fit them for self-Government, and that our authority of our Governor-General-in-Council shall be duly maintained—

“Now, therefore, we do hereby direct and enjoin you and declare our will and pleasure to be as follows :

1. You shall do all that lies in your power to maintain the standards of good administration, to encourage religious toleration, co-operation and good-will among all classes and creeds, to ensure the provity of public finance and the solvency of the Presidency Province and to promote all measures making for the moral, social and industrial welfare of the people and tending to fit all classes of the population, without distinction, to take their due share in the public life and Government of the country.

2. You shall bear in mind that it is necessary and expedient that those now and hereafter to be enfranchised shall appreciate the duties, responsibilities and advantages which spring from the privi-

lege of enfranchisement, that is to say, that those who exercise the power henceforward entrusted to them of returning representatives to the Legislative Council being enabled to perceive the effect of their choice of a representative, and that those who are returned to the Council being enabled to perceive the effect of their votes given therein, shall come to look for the redress of their grievances and the improvement of their condition to the working of representative institutions.

3. In as much as certain matters have been reserved for the administration according to law of the Governor-in-Council, in respect of which the authority of our Governor-General-in-Council shall remain unimpaired, while certain other matters have been transferred to the administration of the Governor acting with a Minister, it will be for you so to regulate the business of the Government of the Presidency Province, so far as possible, that the responsibility for each of these respective classes of matters may be kept clear and distinct. Nevertheless, you shall encourage the habit of joint deliberation between yourself, your Councillors and your Ministers, in order that the experience of your official advisers may be at the disposal of your Ministers and that the knowledge of your Ministers as to the wishes of the people may be at the disposal of your Councillors.

4. You shall assist the Ministers by all the means in your power in the administration of the transferred subjects and advise them in regard to their relations with the Legislative Council.

5. In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, you shall have due regard to his relations with the Legislative Council and to the wishes of the people of the Presidency Province as expressed by their representatives therein.

6. But, in addition to the general responsibilities with which you are, whether by statute or under this instrument, charged, we do further hereby specially require and charge you.—

- (1) To see that whatsoever measures are, in your opinion, necessary for maintaining safety and tranquillity in all parts of your Presidency Province and for preventing occasions of religious or racial conflict, are duly taken and that all orders issued by our Secretary of State or by our Governor-General-in-Council on our behalf to whatever matters relating are duly complied with.
- (2) To take care that due provision shall be made for the advancement and social welfare of those classes amongst the people committed to your charge, who, whether on

account of the smallness of their number, or their lack of educational or material advantages, or from any other cause, specially rely upon our protection and cannot as yet fully rely for their welfare upon joint political action, and that such classes shall not suffer or have cause to fear neglect or oppression.

- (3) To see that no order of your Government and no Act of your Legislative Council shall be so formed that any of the diverse interests of, or arising from, race, religion, education, social condition, wealth or any other circumstances may receive unfair advantage, or may unfairly be deprived of privileges or advantages which they have heretofore enjoyed, or be excluded from the enjoyment of benefits which may hereafter be conferred on the people at large.
- (4) To safeguard all members of our services employed in the said Presidency Provinces in the legitimate exercise of their functions and in the enjoyment of all recognised rights and privileges, and to see that your Government order all things justly and reasonably in their regard and that due obedience is paid to all just and reasonable orders, and diligence shown in their execution.
- (5) To take care that while the people inhabiting the said Presidency shall enjoy all facilities for the province, in the development of commercial and industrial undertaking: no monopoly or special privilege, which is against the commercial interest, shall be established, and no unfair discrimination shall be made in matters affecting commercial or industrial interests.

7. And we do hereby charge you to communicate these our instructions to the members of your Executive Council and your Ministers and to publish the same in your Presidency in such manner as you may think fit.



## Secretary of State's Powers

The powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council under the Act or otherwise shall, in relation to the transferred subjects, be exercised only for the following purposes, namely.

- (1) to safeguard the administration of central subjects ;
- (2) to decide questions arising between two provinces in cases where the provinces concerned fail to arrive at an agreement ;
- (3) to safeguard imperial subjects ;
- (4) to determine the position of the Government of India in respect to questions arising between the Indian and other parts of the British Empire ; and
- (5) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on the Secretary of State or the Secretary of State-in-Council under or in connection with or for the purposes of the following provisions of the Act, namely, Section 29 A, Section 30 (A) part 7-A, or of any rules made by or with the sanction of the Secretary of State in Council.

# Royal Instruction

## To the Governor-General of India

The following revised Instrument of Instructions to H. E. the Governor General of India was issued under the Royal Sign Manual. These instructions were given to H. E. the Governor-General at Buckingham Palace on the 15th of March 1921.

"Whereas by the Government of India Act it is enacted that the Governor General of India is appointed by Warrant under Our Royal Sign Manual and we have by Warrant constituted and appointed a Governor General to exercise the said Office subject to such instructions and directions as Our Governor-General for the time being shall from time to time receive or have received under Our Royal Sign Manual or under the hand of one of Our Principal Secretaries of State

"And Whereas certain instructions were issued under Our Royal Sign Manual to our said Governor-General bearing the date of the nineteenth day of November 1918 and whereas by the coming into operation of the Government of India Act of 1919, it has become necessary to revoke the instructions and to make further and other provisions in their stead

"Now, therefore, we do, by these our instructions, under Our Royal Sign Manual, hereby revoke the aforesaid instructions and declare Our pleasure to be as follows :—

(1) Our Governor-General for the time being (hereinafter called our said Governor-General) shall, with all due solemnity, cause Our Warrant under Our Royal Sign Manual appointing him to be read and published in the presence of the Chief Justice for the time being or in his absence of the senior Judge of one of the High Courts established in British India and of so many of the Members of the Executive Council of Our said Governor-General as may conveniently be assembled, Our said Governor-General shall take the Oath of Allegiance and the Oath for the due execution of the office of our Governor-General of India and for the due and impartial administration of Justice in the forms hereto appended, which Oaths the

said Chief Justice for the time being or in his absence the Senior Justice of our said High Courts shall, and he is hereby required to, tender and administer unto him.

(2) And we do authorise and require our said Governor-General, from time to time by himself or by any other person to be authorised by him in that behalf, to administer to every persons who shall be appointed by Us by Warrant under Our Royal Sign Manual to be a Governor of one of Our Presidencies or Provinces in India and to every person who shall be appointed to be a Lieutenant Governor or a Chief Commissioner, the Oaths and Allegiance of Office in the said forms, and we do authorise and require Our said Governor-General, from time to time by himself or by any other person to be authorised by him in that behalf, to administer to every person who shall be appointed by Us by Warrant under Our Royal Sign Manual or by the Secretary of State in the Council of India to be a Member of the Governor-General's Executive Council or a Member of a Governor's Executive Council, and to every person who shall be appointed to be a Member of a Lieutenant Governor's Executive Council and to every person whom any of our said Governors shall appoint to be a minister, the Oaths and Allegiance of office in the said forms together with the Oath of secrecy hereto appended.

(3) And, We do further direct that every person who under these instructions shall be required to take an Oath may make an Affirmation in place of the Oath, if he has any objection to taking an Oath.

(4) And, We do hereby authorise and empower our said Governor General in Our name and on Our behalf to grant, to any offenders convicted in the exercise of its Criminal Jurisdiction by any Court of Justice within Our said territories, a pardon either free or subject to such lawful conditions as to him may seem fit.

(5) And, in as much as the policy of Our Parliament is set forth in the preamble to the said Government of India Act of 1919, we do hereby require Our said Governor-General to be vigilant that that policy is constantly furthered alike by his Government and as well by the Governments of all Our Presidencies and Provinces.

(6) In particular, it is Our will and pleasure that the powers of superintendence, direction and control over the said local Government vested in Our said Governor-General and in our Governor General in Council shall, unless grave reason to the contrary appears, be exercised with a view to furthering the policy of the Local Governments of all Our Governors' Provinces when such policy finds

favour with a majority of the members of the Legislative Council of the Province.

(7) Similarly, it is Our will and pleasure that Our said Governor General shall use all endeavour, consistent with the fulfilment of his responsibilities to Us and to Our Parliament, for the welfare of Our Indian subjects, that the administration of the matters committed to the direct charge of Our Governor-General in Council may be conducted in harmony with the wishes of Our said subjects as expressed by their representatives in the Indian Legislature so far as the same shall appear to him to be just and reasonable.

(8) For, above all things, it is Our will and pleasure that the plans laid by our Parliament for the progressive realisation of Responsible Government in British India as an integral part of Our Empire may come to fruition to the end that British India may attain its due place among Our Dominions. Therefore, we now charge our said Governor General, by the means aforesaid and by all other means which may to him seem fit, to guide the course of Our subjects in India whose governance We have committed to his charge, so that, subject on the one hand always to the determination of Our Parliament and on the other hand to the co-operation of those on whom new opportunities of service have been conferred, progress towards such realisation may ever advance to the benefit of all Our subjects in India.

And, We do hereby charge our said Governor-General to communicate these our instructions to the Members of His Executive Council and to publish the same in such manner as he may think fit."



# The Government of India Act 1919 9 & 10 Geo. 5, Ch. 101.

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# The Government of India Act 1919

AN ACT TO MAKE FURTHER PROVISION WITH RESPECT  
TO THE GOVERNMENT OF INDIA.

## PREAMBLE

WHEREAS it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of self-governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the Empire ;

And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken ;

And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples :

And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility :

And whereas concurrently with the gradual development of self-governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities :

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## PART I

### LOCAL GOVERNMENTS.

Sec. 1. (1) Provision may be made by rules under the Government of India Act, 1915, as amended by the Government of India (Amendment) Act, 1916 (which Act, as so amended, is in this Act referred to as "the Principal Act")—

**Classification of central and provincial subjects.**



- a. For the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature ;
- b. For the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments ;
- c. For the use under the authority of the Governor-General in Council of the agency of local governments in relation to central subjects, in so far as such agency may be found convenient, and for determining the financial conditions of such agency ; and
- d. For the transfer from among the provincial subjects of subjects ( in this Act referred to as " transferred subjects." ) to the administration of the Governor acting with Ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.

(2) Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may—

- i. Regulate the extent and conditions of such devolution, allocation, and transfer ;
- ii. Provide for fixing the contributions payable by local governments to the Governor-General in Council, and making such contributions a first charge on allocated revenues or moneys ;
- iii. Provide for constituting a finance department in any province, and regulating the functions of that department ;
- iv. Provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein ;
- v. Provide for the settlement of doubts arising as to whether any matter does or does not relate to a provincial subject or a transferred subject and for the treatment of matters which affect both a transferred subject and a subject which is not transferred ; and
- vi. make such consequential and supplemental provisions as appear necessary or expedient :

Provided that, without prejudice to any general power of revoking or altering rules under the Principal Act, the rules shall not authorise the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council.

(3) The powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under the Principal Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under that Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.

(4) The expressions "central subjects" and "provincial subjects" as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as "reserved subjects."

**Sec. 2** (1) The provision in sub-section (1) of section thirty of the Principal Act, which gives power to local governments to raise money on real or personal estate within the limits of their respective governments by way of mortgage or otherwise, shall have effect as though that provision conferred a power on local governments to raise money on the security of their allocated revenues, and to make proper assurances for that purpose.

(2) Provision may be made by rules under the Principal Act as to the conditions under which the power to raise loans on the security of allocated revenues shall be exercised.

(3) The provision in sub-section (1) of section thirty of the Principal Act, which enables the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India to prescribe provisions or conditions limiting the power to raise money, shall cease to have effect as regards the power to raise money on the security of allocated revenues.

**Sec. 3** (1) The presidencies of Fort William in Bengal, Fort St. George, and Bombay, and the provinces known as the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and Assam, shall each be governed, in relation to reserved subjects, by a Governor in council, and in relation to transferred subjects (save as otherwise provided by this Act), by the Governor acting with Ministers appointed under this Act.

The said presidencies and provinces are in this Act referred to as "Governor's provinces" and the two first-named presidencies are in this Act referred to as the presidencies of Bengal and Madras.

(2) The provisions of sections forty-six to fifty-one of the Principal Act, as amended by this Act, shall apply to the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and

Assam, as they apply to the presidencies of Bengal, Madras, and Bombay : Provided that the Governors of the said provinces shall be appointed after consultation with the Governor General.

**Sec. 4 (1)** The Governor of a Governor's province may, by notification, appoint Ministers, not being members of his Executive council or other officials, to administer transferred subjects, and any Ministers so appointed shall hold office during his pleasure.

There may be paid to any Minister so appointed in any province the same salary as is payable to a member of the Executive council in that province, unless a smaller salary is provided by vote of the legislative council of the province.

(2) No Minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

(3) In relation to transferred subjects, the Governor shall be guided by the advice of his Ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice : Provided that rules may be made under the Principal Act for the temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no Minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(4) The Governor of a Governor's province may at his discretion appoint from among the non-official members of the local legislature Council Secretaries who shall hold office during his pleasure, and discharge such duties in assisting members of the Executive council and Ministers, as he may assign to them.

There shall be paid to Council Secretaries so appointed such salary as may be provided by vote of the legislative council.

A Council Secretary shall cease to hold office if he ceases for more than six months to be a member of the legislative council.

**Sec. 5. (1)** The provision in section forty-seven of the Principal Act, that two of the members of the Executive council of the Governor of the province must have been for at least twelve years in the service of the Crown in India, shall have effect as though "one" were substituted for "two," and the provision in that section that the Commander-in-Chief of his Majesty's Forces in India, if resident at Calcutta, Madras, or Bombay, shall, during

his continuance there, be a member of the Governor's council, shall cease to have effect.

(2) Provision may be made by rules under the Principal Act as to the qualifications to be required in respect of members of the Executive council of the Governor of a province in any case where such provision is not made by section forty-seven of the Principal Act as amended by this section.

**Sec. 6. (1)** All orders and other proceedings of the government of a Governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the Governor may by rule direct, so, however, that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings.

**Business of Governor in council and Governor with Ministers.**

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(2) The Governor may make rules and orders for the more convenient transaction of business in his Executive council and with his Ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

The Governor may also make rules and orders for regulating the relations between his Executive council and his Ministers for the purpose of the transaction of the business of the local government :

Provided that any rules or order made for the purposes specified in this section which are repugnant to the provisions of any rules made under the Principal Act as amended by this Act shall, to the extent of that repugnancy, but not otherwise, be void.

**Sec. 7. (1)** There shall be a Legislative council in every Governor's province, which shall consist of the members of the Executive council and of the members nominated or elected as provided by this Act.

**Composition of Governor's Legislative councils.**

The Governor shall not be a member of the Legislative council, but shall have the right of addressing the council, and may for that purpose require the attendance of its members.

(2) The number of members of the Governors' Legislative councils shall be in accordance with the table set out in the First Schedule to this Act ; and of the members of each Council not more

than twenty per cent. shall be official members, and at least seventy per cent. shall be elected members :

Provided that—

- a. Subject to the maintenance of the above proportions, rules under the Principal Act may provide for increasing the number of members of any council, as specified in that schedule ; and
- b. the Governor may, for the purposes of any Bill introduced or proposed to be introduced in his Legislative council, nominate, in the case of Assam one person, and in the case of other provinces not more than two persons, having special knowledge or experience of the subject-matter of the Bill, and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the Council, and shall be in addition to the numbers above referred to ; and
- c. members nominated to the Legislative council of the Central Provinces by the Governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the Legislative council of the Central Provinces.

(3) The powers of a Governor's Legislative council may be exercised notwithstanding any vacancy in the council.

(4) Subject as aforesaid, provision may be made by rules under the principal Act as to—

- a. the term of office of nominated members of Governors' Legislative councils, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, resignation duly accepted, or otherwise ; and
- b. the conditions under which and manner in which persons may be nominated as members of Governors' Legislative councils ; and
- c. the qualification of electors, the constitution of constituencies, and the method of election for Governors' Legislative councils, including the number of members to be elected by communal and other electorates, and any matters incidental or ancillary thereto ; and
- d. the qualifications for being and for being nominated or elected a member of any such Council ; and
- e. the final decision of doubts or disputes as to the validity of any election ; and
- f. the manner in which the rules are to be carried into effect :

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulations affecting the same matters.

(5) Subject to any such rules any person who is a Ruler or subject of any State in India may be nominated as a member of a Governor's Legislative council.

**Sessions and duration of  
Governors' legislative  
councils.**

**Sec. 8. (1)** Every Governor's Legislative council shall continue for three years from its first meeting :

Provided that—

a. the Council may be sooner dissolved by the Governor ; and  
b. the said period may be extended by the Governor for a period not exceeding one year, by notification in the official gazette of the province, if in special circumstances (to be specified in the notification) he so thinks fit ; and

c. after the dissolution of the Council the Governor shall appoint a date not more than six months or, with the sanction of the Secretary of State, not more than nine months from the date of dissolution for the next session of the Council.

(2) A Governor may appoint such times and places for holding the sessions of his Legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the Council.

(3) Any meeting of a Governor's Legislative council may be adjourned by the person presiding.

(4) All questions in a Governor's Legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.

**Sec. 9. (1)** There shall be a President of a Governor's Legislative council, who shall, until the expiration of a period of four years from the first meeting of the Council as constituted

**Presidents of Governors'  
Legislative councils.**

under this Act, be a person appointed by the Governor, and shall thereafter be a member of the Council elected by the Council and approved by the Governor :

Provided that if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a President shall take place at the commencement of the next ensuing session.

(2) There shall be a Deputy-President of a Governor's Legislative council who shall preside at meetings of the council in the absence of the President, and who shall be a member of the Council elected by the Council and approved by the Governor.

(3) The appointed President of a Council shall hold office until the date of the first election of a President by the Council under this section, but he may resign office by writing under his hand addressed to the Governor, or may be removed from office by order of the Governor, and any vacancy occurring before the expiration of the term of office of an appointed President shall be filled by a similar appointment for the remainder of such term.

(4) An elected President and a Deputy-President shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the Governor, and may be removed from office by a vote of the Council with the concurrence of the Governor.

(5) The President and the Deputy-President shall receive such salaries as may be determined, in the case of an appointed President, by the Governor, and in the case of an elected President or Deputy-President, by an Act of the local legislature.

**Sec. 10. (1)** The local Legislature of any province has power, **Powers of local legislatures.** subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local Legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter, as to that province, any law made either before or after the commencement of this Act by any authority in British India other than that local Legislature.

(3) The local Legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

- a. imposing or authorising the imposition of any new tax unless the tax is a tax scheduled as exempted from this provision by rules made under the Principal Act ; or
- b. affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor General in Council for the general purposes of the government of India, provided that the imposition or alteration of a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty ; or

- c. affecting the discipline or maintenance of any part of His Majesty's naval, military, or air forces ; or
- d. affecting the relations of the government with foreign Princes or States ; or
- e. regulating any Central subject ; or
- f. regulating any provincial subject which has been declared by rules under the Principal Act to be, either in whole or in part, subject to legislation by the Indian legislature, in respect of any matter to which such declaration applies ; or
- g. affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force : or
- h. altering or repealing the provisions of any law which, having been made before the commencement of this Act by any authority in British India other than that local Legislature, is declared by rules under the Principal Act to be a law which cannot be repealed or altered by the local Legislature without previous sanction ; or
- i. altering or repealing any provision of an Act of the Indian Legislature made after the commencement of this Act, which by the provisions of that Act may not be repealed or altered by the local Legislature, without previous sanction :

Provided that an Act or a provision of an Act made by a local Legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(4) The local Legislature of any province has not power to make any law affecting any Act of Parliament.

**Sec. 11.** (1) Sub-sections (1) and (3) of section eighty of the **Business and procedure in** principal Act which relate to the classes of business which may be transacted at **Governors' Legislative** meetings of local Legislative councils, shall cease to apply to a Governor's Legislative council, but the business and procedure in any such Council shall be regulated in accordance with the provisions of this section.

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the Council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted



to the vote of the Council in the form of demands for grants. The Council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grants or by the omission or reduction of any of the items of expenditure of which the grant is composed :

Provided that—

- a. the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject ; and
- b. the Governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department : and
- c. no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the Governor, communicated to the council.

(3) Nothing in the foregoing sub-section shall require proposals to be submitted to the Council relating to the following heads of expenditure ;

- (i) contributions payable by the local government to the Governor-General in Council ; and
  - (ii) interest and sinking fund charges on loans ; and
  - (iii) expenditure of which the amount is prescribed by or under any law ; and
  - (iv) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ; and
- d. salaries of judges of the High Court of the province and of the Advocate-General.

If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the Governor shall be final.

(4) Where any Bill has been introduced or is proposed to be introduced, or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no

proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(5) Provision may be made by rules under the Principal Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the Council, and as to the persons to preside over meetings thereof in the absence of the President and Deputy-President, and the preservation of order at meetings ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in the council, in so far as these matters are not provided for by rules made under the Principal Act. The first standing orders shall be made by the Governor in Council, but may, subject to the assent of the Governor be altered by the local Legislatures. Any standing order made as aforesaid which is repugnant to the provisions of any rules made under the Principal Act, shall to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the Council, there shall be freedom of speech in the Governors' Legislative Councils. No person shall be liable to any proceedings in any court by reason of his speech or vote in any such Council or by reason of anything contained in any official report of the proceedings of any such Council.

**Sec. 12. (1)** Where a Bill has been passed by a local Legislative council the Governor, Lieutenant-Governor or Chief Commissioner may instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the Council for reconsideration, either in whole or in part, together any amendments which he may recommend, or, in cases prescribed by rules under the Principal Act may, and if the rules so require shall, reserve the Bill for the consideration of the Governor-General.

(2) Where a Bill is reserved for the consideration of the Governor-General the following provisions shall apply :—

- a. The Governor, Lieutenant-Governor or Chief Commissioner may, at any time within six months from the date of the reservation of the Bill with the consent of the Governor-General, return the Bill for further consideration by the

Council with a recommendation that the Council shall consider amendments thereto :

b. After any Bill so returned has been further considered by the Council, together with any recommendations made by the governor, Lieutenant-Governor or Chief Commissioner relating thereto, the Bill, if re-affirmed with or without amendment, may be again presented to the Governor, Lieutenant-Governor, or Chief Commissioner :

c. Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, in the same a way as a Bill assented to by the Governor, Lieutenant-Governor or Chief Commissioner but, if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect unless before the expiration of that period either—

(i) the Bill has been returned by the Governor, Lieutenant-Governor or Chief Commissioner, for further consideration by the council ; or

(ii) in the case of the Council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.

(3) The Governor-General may (except where the Bill has been reserved for his consideration), instead of assenting to or withholding his assent from any Act passed by a local legislature, declare, that he reserves the Act for the signification of His Majesty's pleasure thereon, and in such case the Act shall not have validity until His Majesty in Council has signified his assent and his assent has been notified by the Governor-General.

**Sec. 13. (1)** Where a Governor's Legislative Council has refused

**Provision for case of failure to pass Legislation in Governors' Legislative Councils.** leave to introduce, or has failed to pass in a form recommended by the Governor, any Bill relating to a reserved subject the Governor may certify that the passage of the

Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the Council have not consented thereto, be deemed to have passed, and shall, on signature by the Governor, become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the Council or (as the case may be) in the form recommended to the Council by the Governor.

(2) Every such Act shall be expressed to be made by the Governor, and the Governor shall forthwith send an authentic copy thereof to the Governor-General who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the local Legislature and duly assented to:

Provided that where, in the opinion of the Governor-General a state of emergency exists which justifies such action, he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act shall have such force and effect as aforesaid, subject however to disallowance by His Majesty in Council.

(3) An Act made under this section shall, as soon as practicable after being made, be laid before each House of Parliament, and an Act which is required to be presented for His Majesty's assent shall not be so presented until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat.

Sec. 14. An official shall not be qualified for election as a member of a local Legislative Council, and if any  
 Vacation of seats in local Legislative Councils. non-official member of a local Legislative Council, whether elected or nominated, accepts any office in the service of the Crown in India, his seat on the council shall become vacant:

Provided that for the purposes of this provision a Minister shall not be deemed to be an official, and a person shall not be deemed to accept office on appointment as a Minister.

Sec. 15. (1) The Governor General in council may, after obtaining an expression of opinion from the local government and the local legislature  
 Constitution of new provinces, etc., and provision as to backward tracts. affected, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new Governor's province, or place part of a Governor's province under the administration of a Deputy-Governor to be appointed by the Governor-General, and may in any such case apply, with such modifications as appear necessary or desirable, all or any of the provisions of the Principal Act or this Act relating to Governor's provinces, or provinces under a Lieutenant-governor or Chief-commissioner, to any such new province or part of a province.

(2) The Governor-General in Council may declare any territory in British India to be "a backward tract," and may, by notification, with such sanction as aforesaid, direct that the Principal Act and

this Act shall apply to that territory subject to such exceptions and modifications, as may be prescribed in the notification. Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian Legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof, subject to such exceptions or modifications as the Governor-General thinks fit, or may authorise the Governor in Council to give similar directions as respects any Act of the local legislature.

**Sec. 16. (1)** The validity of any order made or action taken

**Saving.** after the commencement of this Act by the Governor-General in Council or by a local

government which would have been within the powers of the Governor-General in Council or of such local Government if this Act had not been passed, shall not be open to question in any local proceedings on the ground that by reason of any provision of this Act or of any rule made by virtue of any such provision, such order or action has ceased to be within the powers of the Governor-General in Council or of the government concerned.

(2) Nothing in this Act, or in any rule made thereunder, shall be construed as diminishing in any respect the powers of the Indian Legislature as laid down in section sixty-five of the Principal Act, and the validity of any Act of the Indian Legislature or any local Legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincial subject or a central subject as the case may be, and the validity of any Act made by the Governor of a province shall not be so open to question on the ground that it does not relate to a reserved subject.

(3) The validity of any order made or action taken by a Governor in Council, or by a Governor acting with his Ministers, shall not be open to question in any legal proceedings on the ground that such order or action relates or does not relate to transferred subject, or relates to a transferred subject of which the Minister is not in charge.

## PART II.

### GOVERNMENT OF INDIA.

**Sec. 17.** Subject to the provisions of this Act, the Indian  
**Indian Legislature.** legislature shall consist of the Governor-General and two Chambers, namely the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this Act a Bill shall not be deemed to have been passed by the Indian Legislature unless it has been agreed to by both Chambers, either without amendment or with such amendments only as may be agreed to by both Chambers.

**Sec 18. (1)** The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under the Principal Act, of whom not more than twenty shall be official members.

(2) The Governor-General shall have power to appoint, from among the members of the Council of State, a President and other persons to preside in such circumstances as he may direct.

(3) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.

**Sec 19. (1)** The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under the Principal Act.

(2) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred :

Provided that rules made under the Principal Act may provide for increasing the numbers of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so however, that at least five-sevenths of the Legislative Assembly shall be non-official members.

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.

**Sec. 20. (1)** There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General :

Provided that, if at the expiration of such period of four years the Assembly is in session, the President then in office shall continue in office until the end of the current session, and the first election

of a President shall take place at the commencement of the ensuing session.

(2) There shall be a Deputy-President of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the President, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(3) The appointed President shall hold office until the date of the election of a President under this section, but he may resign his office by writing under his hand addressed to the Governor-General or may be removed from office by order of the Governor-General and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(4) An elected President and a Deputy-President shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(5) A President and Deputy-President shall receive such salaries as may be determined, in the case of an appointed President by the Governor-General, and in the case of an elected president and a Deputy-President by Act of the Indian Legislature.

Duration and sessions of  
Legislative Assembly and  
Council of State.

Sec. 21. (1) Every Council of State shall continue for five years, and every Legislative Assembly for three years, from its first meeting:

Provided that—

- a. either Chamber of the Legislature may be sooner dissolved by the Governor-General; and
- b. any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and
- c. after the dissolution of either Chamber the Governor-General shall appoint a date not more than six months, or, with the sanction of the Secretary of State not more than nine months after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either Chamber of the Indian Legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either Chamber of the Indian Legislature may be adjourned by the person presiding.

(4) All questions in either Chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either Chamber of the Indian Legislature may be exercised notwithstanding any vacancy in the Chamber.

**Sec. 22.** (1) An official shall not be qualified for election as a member of either chamber of the Indian Legislature, and, if any non-official member of either Chamber accepts office in the service of the Crown in India, his seat in that Chamber shall become vacant.

(2) If an elected member of either Chamber of the Indian Legislature becomes a member of the other Chamber, his seat in such first mentioned Chamber shall thereupon become vacant.

(3) If any person is elected a member of both Chambers of the Indian Legislature, he shall, before he takes his seat in either Chamber, signify in writing the Chamber of which he desires to be a member, and thereupon his seat in the other Chamber shall become vacant.

(4) Every member of the Governor-General's Executive Council shall be nominated as a member of one Chamber of the Indian Legislature, and shall have the right of attending in and addressing the other Chamber, but shall not be a member of both Chambers.

**Supplementary provisions  
as to composition of Legis-  
lative Assembly and  
Council of State**

**Sec. 23.** (1) Subject to the provisions of this Act, provisions may be made by rules under the Principal Act as to—

- a. the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise : and
- b. the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly ; and
- c. the qualification of electors, the constitution of constituencies, and the methods of election for the Council of State



and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matters incidental or ancillary thereto ; and

*d.* the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly : and

*e.* the final decision of doubts or disputes as to the validity of an election : and

*f.* the manner in which the rules are to be carried into effect.

(2) Subject to any such rules, any person who is a ruler or subject of any State in India may be nominated as a member of the Council of State or the Legislative Assembly.

**Sec. 24.** (1) Subsections (2) and (3) of section sixty-seven of the

**Business and proceedings  
in Indian Legislature.**

Principal Act (which relate to the classes of business which may be transacted by the Indian Legislative Council) shall cease

to have effect.

(2) Provision may be made by rules under the principal Act for regulating the course of business and the preservation of order in the Chambers of the Indian Legislature, and as to the persons to preside at the meetings of the Legislative Assembly in the absence of the President and the Deputy-President ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussions of, any subject specified in the rules.

(3) If any Bill which has been passed by one Chamber is not, within six months after the passage of the Bill by that Chamber, passed by the other Chamber either without amendments or with such amendments as may be agreed to by the two Chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both Chambers : Provided that standing orders made under this section may provide for meetings of members of both Chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two Chambers.

(4) Without prejudice to the powers of the Governor-General under section sixty-eight of the Principal Act, the Governor-General may, where a Bill has been passed by both Chambers of the Indian Legislature, return the Bill for reconsideration by either Chamber.

(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either Chamber of the Indian Legislature in so far as these matters are not provided for by rules made under the Principal Act. The first standing orders shall be made by the Governor-General in Council, but may, with the consent of the Governor-General, be altered by the Chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under the Principal Act shall, to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the Chamber, there shall be freedom of speech in both Chambers of the Indian Legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either Chamber, or by reason of anything contained in any official report of the proceedings of either Chamber.

**Sec. 25. (1)** The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year.

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

(3) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs—

- (i) interest and sinking fund charges on loans ; and
- (ii) expenditure of which the amount is prescribed by or under any law ; and
- (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ; and
- (iv) salaries of Chief Commissioners and Judicial Commissioners ; and
- (v) expenditure classified by the order of the Governor-General in Council as—
  - a. ecclesiastical ;
  - b. political ;
  - c. defence.

(4) If any question arises whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, the decision of the Governor-General on the question shall be final.

(5) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of Legislative assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section the Governor-General shall have power, in cases of emergency, to authorise such expenditure as may in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.

**Sec. 26. (1)** Where either Chamber of the Indian Legislature refuses leave to introduce or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity or interests of British India or any part thereof, and thereupon—

a. if the Bill has already been passed by the other Chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both Chambers, forthwith become an Act of the Indian Legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian Legislature, or (as the case may be) in the form recommended by the Governor-General; and

b. if the Bill has not already been so passed, the Bill shall be laid before the other Chamber, and, if consented to by that Chamber in the form recommended by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so

consented to, shall, on signature by the Governor-General, become an Act as aforesaid.

(2) Every such Act shall be expressed to be made by the Governor-General and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat; and upon the signification of such assent by His Majesty in Council and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian Legislature and duly assented to.

Provided that, where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.

**Sec. 27. (1)** In addition to the measures referred to in sub-  
**Supplemental provisions** section sixty-seven of the Principal Act,  
**as to powers of Indian** as requiring the previous sanction of the  
**Legislature.** Governor-General, it shall not be lawful  
 without such previous sanction to introduce at any meeting of either  
 Chamber of the Indian Legislature any measure.—

- a. regulating any provincial subject, or any part of provincial subject, which has not been declared by rules under the Principal Act to be subject to Legislation by the Indian Legislature.
- b. repealing or amending any Act of a local Legislature ;
- c. repealing or amending any Act or ordinance made by the Governor-General.

(2) Where in either Chamber of the Indian Legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the Chamber in relation to the Bill, clause, or amendment, and effect shall be given to such direction.

**Sec. 28. (1)** The provision in section thirty-six of the Principal Act, imposing a limit on the number of members of the Governor-General's Executive Council, shall cease to have effect.

(2) The provision in section thirty-six of the Principal Act as to the qualification of members of the council shall have effect as though the words "at the time of their appointment" were omitted, and as though after the word "Scotland" there were inserted the words "or a pleader of the High Court" and as though "ten years" were substituted for "five years."

(3) Provision may be made by rules under the Principal Act as to the qualifications to be required in respect of members of the Governor-General's executive council, in any case where such provision is not made by section thirty-six of the Principal Act as amended by this section.

(4) Sub-section (2) of section thirty-seven of the Principal Act (which provides that when and so long as the Governor-General's executive council assembles in a province having a Governor he shall be an extraordinary member of the council) shall cease to have effect.

**Sec. 29. (1)** The Governor-General may at his discretion appoint, from among the members of the Legislative Assembly, Council Secretaries who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them.

(2) There shall be paid to Council Secretaries so appointed such salary as may be provided by the Indian Legislature.

(3) A Council Secretary shall cease to hold office if he ceases for more than six months to be a member of the Legislative Assembly.

### PART III.

#### SECRETARY OF STATE IN COUNCIL.

**Sec. 30.** The salary of the Secretary of State, the salaries of his under-secretaries, and any other expenses of his department may, notwithstanding anything in the Principal Act, instead of being paid out of the revenues of India, be paid out of moneys provided by Parliament, and the salary of the Secretary of State shall be so paid.

Sec. 31. The following amendments shall be made in section three of the Principal Act in relation to the composition of the Council of India, the qualification, term of office, and remuneration of its members.—

- (1) The provisions of sub-section (1) shall have effect as though "eight" and "twelve" were substituted for "ten" and "fourteen" respectively as the minimum number of members, provided that the council as constituted at the time of the passing of this Act shall not be affected by this provision, but no fresh appointment or re-appointment thereto shall be made in excess of the maximum prescribed by this provision.
- (2) The provisions of sub-section (3) shall have effect as if "one-half" were substituted for "nine" and "India" were substituted for "British India."
- (3) In sub-section (4) "five years" shall be substituted for "seven years" as the term of office of members of the Council, provided that the tenure of office of any person who is a member of the Council at the time of the passing of this Act shall not be affected by this provision.
- (4) The provisions of sub-section (8) shall cease to have effect and in lieu thereof the following provisions shall be inserted:

"There shall be paid to each member of the Council of India the annual salary of twelve hundred pounds: provided that any member of the Council who was at the time of his appointment domiciled in India shall receive, in addition to the salary hereby provided, an annual subsistence allowance of six hundred pounds.

Such salaries and allowances may be paid out of the revenues of India or out of moneys provided by Parliament."

- (5) Notwithstanding anything in any Act or rules, where any person in the service of the Crown in India is appointed a member of the Council before completion of the period of such service required to entitle him to a pension or annuity, his service as such member shall, for the purpose of any pension or annuity which would be payable to him on completion of such period, be reckoned as service under the Crown in India whilst resident in India.

**Sec. 32. (1)** The provision in section six of the Principal Act which prescribes the quorum for meetings of the Council of India shall cease to have effect, and the Secretary of State shall provide for a quorum by directions to be issued in this behalf.

(2) The provision in section eight of the Principal Act relating to meetings of the Council of India shall have effect as though "month" were substituted for "week."

(3) Section ten of the Principal Act shall have effect as though the words "all business of the Council or committees thereof to be transacted" were omitted and the words "the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council" were inserted in lieu thereof.

**Sec. 33.** The Secretary of State in Council may, notwithstanding anything in the Principal Act, by rule regulate and restrict the exercise of the powers of Superintendence, direction, and control, vested in the Secretary of State and the Secretary of State in Council, by the Principal Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of this Act.

Before any rules are made under this section relating to subjects other than ~~transferred subjects~~, the rules proposed to be made shall be laid in draft before both Houses of Parliament, and such rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications or additions to which both Houses agree, but upon such approval being given the Secretary of State in Council may make such rules in the form in which they have been approved, and such rules on being so made shall be of full force and effect.

Any rules relating to ~~transferred subjects~~ made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

**Sec. 34.** So much of section five of the Principal Act as relates to **Correspondence between orders and communications sent to India Secretary of State and from the United Kingdom and to orders India.** made in the United Kingdom, and section eleven, twelve, thirteen and fourteen of the Principal Act, shall cease to have effect, and the procedure for the sending of orders and communications to India and in general for correspondence between the Secretary of State and the Governor-General in Council or any local government shall be such as may be prescribed by order of the Secretary of State in Council.

**Sec. 35.** His Majesty may by Order in Council make provision for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pension, powers, duties, and conditions of employment of the High Commissioner and of his assistants; and the Order further provide for delegating to the High Commissioner any of the powers previously exercised by the Secretary of State or the Secretary of State in Council whether under the Principal Act or otherwise in relation to making contracts, and may prescribe the conditions under which he shall act on behalf of the Governor-General in Council or any local Government.

## PART IV.

### THE CIVIL SERVICES IN INDIA.

**Sec. 36.** (1) Subject to the provisions of the Principal Act and of rules made thereunder, every **The Civil Service in India.** person in the civil service of the Crown in India holds office during His Majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed.

If any such person appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a Governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled, he may, without prejudice to any other right of redress, complain to the Governor of the province in order to obtain justice, and the Governor is hereby directed to examine such complaint and require such action to be taken thereon as may appear to him to be just and equitable.



(2) The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local Governments, or authorise the Indian Legislature or local Legislatures to make laws regulating the public services :

Provided that every person appointed before the commencement of this Act by the Secretary of State in Council to the civil service of the Crown in India shall retain all his existing or accruing rights, or shall receive such compensation for the loss of any of them as the Secretary of State in Council may consider just and equitable.

(3) The right to pensions and the scale and conditions of all persons in the civil service of the Crown in India appointed by the Secretary of State in Council shall be regulated in accordance with the rules in force at the time of the passing of this Act. Any such rules may be varied or added to by the Secretary of State in Council and shall have effect as so varied or added to, but any such variation or addition shall not adversely affect the pension of any member of the service appointed before the date thereof.

Nothing in this section or in any rule thereunder shall prejudice the rights to which any person may, or may have, become entitled under the provisions in relation to pensions contained in the East India Annuity Funds Act, 1874.

(4) For the removal of doubts it is hereby declared that all rules or other provisions in operation at the time of the passing of this Act, whether made by the Secretary of State in Council or by any other authority, relating to the civil service of the Crown in India, were duly made in accordance with the powers in that behalf, and are confirmed, but any such rules or provisions may be revoked, varied or added to by rules or laws made under this section.

**Sec. 37. (1)** Notwithstanding anything in section ninety-seven of the Principal Act the Secretary of State may make appointments to the Indian Civil Service of persons domiciled in India, in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the Council of India.

Any rules made under this section shall not have force until they have been laid for thirty days before both House of Parliament.

(2) The Indian Civil Service (Temporary Provisions) Act, 1915 5 and 6 Geo. 5. c. 87. (which confers power during the war and for a period of two years thereafter to make appointments to the Indian Civil Service without examination), shall have effect as though "three years" were substituted for "two years."

**Sec. 38. (1)** There shall be established in India a public service **Public Service Commission.** commission, consisting of not more than five members, of whom one shall be Chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expiry of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment, and the pay and pension (if any) attaching to the office of Chairman and member, shall be prescribed by rules made by the Secretary of State in Council.

(2) The public service commission shall discharge, in regard to recruitment and control of the public service in India, such functions as may be assigned thereto by the Secretary of State in Council.

**Sec. 39. (1)** An Auditor-General in India shall be appointed **Financial Control.** by the Secretary of State in Council, and shall hold office during His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(2) Subject to any rules made by the Secretary of State in Council, no office may be added to or withdrawn from the public service, and the emoluments of no post may be varied, except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Government of India, according as the post is or is not under the control of a local Government.

**Sec. 40.** Rules made under this Part of this Act shall not be **Rules under: Part IV.** made except with the concurrence of the majority of votes at a meeting of the Council of India.

## PART V.

## STATUTORY COMMISSION.

**Sec. 41.** (1) At the expiration of ten years after the passing of this Act the Secretary of State, with the concurrence of both Houses of Parliament, shall submit for the approval of His Majesty the names of persons to act as a Commission for the purposes of this section.

(2) The persons whose names are so submitted, if approved by His Majesty, shall be a Commission for the purpose of inquiring into the working of the system of Government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the Commission shall report as to whether and to what extent it is desirable to establish the principle of responsible Government, or to extend, modify, or restrict the degree of responsible Government, then existing therein including the question whether the establishment of second Chambers of the local Legislatures is or is not desirable.

(3) The Commission shall also inquire into and report on any other matter affecting British India and the provinces, which may be referred to the Commission by His Majesty.

## PART VI.

## GENERAL.

**Sec. 42.** Notwithstanding anything in section one hundred and twenty-four of the Principal Act, if any member of the Governor-General's Executive Council or any member of any local Government was at the time of his appointment concerned or engaged in any trade or business, he may, during the term of his office, with the sanction in writing of the Governor-General, or in the case of ministers of the Governor of the province, and in any case subject to such general conditions and restrictions as the Governor-General in Council may prescribe, retain his concern or interest in that trade or business, but shall not, during that term, take part in the direction or management of that trade or business.

**Sec. 43.** Any assent or disallowance by His Majesty, which under the Principal Act is required to be signified through the Secretary of State in Council, shall as from the passing of this Act be signified by His Majesty in Council.

**Sec. 44. (1)** Where any matter is required to be prescribed

**Power to make rules.**

or regulated by rules under the Principal Act and no special provision is made as to the authority by whom the rules are to be made the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian Legislature or by any local Legislature.

(2) Any rules made under this Act or under the Principal Act may be so framed as to make different provision for different provinces.

(3) Any rules to which sub-section (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and, if an Address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder:

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications or additions to which both Houses agree, but, upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament.

**Sec. 45. (1)** The amendments set out in parts I and II of the

**Amendments of Principal Act to carry Act into effect, etc.**

Second Schedule to this Act, being amendments to incorporate the provisions of this Act in the Principal Act, and further amendments consequential on or arising out of those provisions, shall be made in the Principal Act, and any question of interpretation shall be settled by reference to the Principal Act as so amended. The provisions of the Principal Act, specified in Part III of that schedule, being provisions which are obsolete or unnecessary, or which require amendment in detail, are hereby repealed or modified, and shall be dealt with, in the manner shown in the second column of that schedule.

(2) Every enactment and word which is directed by the Government of India (Amendment) Act, 1916, or by this section and the

Second Schedule to this Act, to be substituted for or added to any portion of the Government of India Act, 1915, shall form part of the Government of India Act, 1915, in the place assigned to it by the Government of India (Amendment) Act, 1916, or that schedule ; and the Government of India Act, 1915, and all Acts, including this Act, which refer thereto shall, after the commencement of this Act, be construed as if the said enactment or word had been enacted in the Government of India Act, 1915, in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word.

A copy of the Government of India Act, 1915, with the amendments, whether by way of substitution, addition or omission, required by the Government of India (Amendment) Act, 1916, and by this section and the Second Schedule to this Act, shall be prepared and certified by the Clerk of the Parliaments, and deposited with the Rolls of Parliament, and His Majesty's printer shall print, in accordance with the copy so certified, all copies of the Government of India Act, 1915, which are printed after the passing of this Act, and the Government of India Act, 1915, as so amended, may be cited as "The Government of India Act."

Sub-section (3) of section eight of the Government of India (Amendment) Act, 1916, is hereby repealed.

**Sec. 46.** In this Act the expressions "official" and "non-official,"

**Definition of official.** where used in relation to any person, mean respectively a person who is or is not in the civil or military service of the Crown in India :

Provided that rules under the Principal Act may provide for the holders of such offices as may be specified in the rules not being treated for the purposes of the Principal Act or this Act, or any of them, as officials.

**Sec. 47.** (1) This Act may be cited as the Government of

**Short title, commencement, interpretation, and transitory provisions.**

India Act, 1919, and the Principal Act, as amended by any Act for the time being in force, may be cited as the Government of India Act.

(2) This Act shall come into operation on such date or dates as the Governor-General in Council, with the approval of the Secretary of State in Council, may appoint, and different dates may be appointed for different provisions of this Act, and for different parts of India.

On the dates appointed for the coming into operation of the provisions of this Act as respects any executive or Legislative

Council all the members of the Council then in office shall go out of office, but may, if otherwise qualified, be reappointed, renominated or re-elected, as the case may be, in accordance with the provisions of the Principal Act as amended by this Act.

(3) Any reference in any enactment, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations, or orders made under any such enactment, or in any letters patent or other document, to any enactment repealed by the Principal Act, shall for all purposes be construed as references to the Principal Act as amended by this Act or to the corresponding provision thereof.

(4) Any reference in any enactment in force in India, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations, or orders made under any such enactment or in any letters patent or other document, to any Indian Legislative authority shall for all purposes be construed as reference to the corresponding authority constituted by the Principal Act as amended by this Act.

(5) If any difficulty arises as to the first establishment of the Indian Legislature or any Legislative Council after the commencement of this Act or otherwise in first giving effect to the provisions of this Act, the Secretary of State in Council or the Governor-General in Council, as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

## SCHEDULES.

### \* FIRST SCHEDULE.

#### NUMBER OF MEMBERS OF LEGISLATIVE COUNCILS.

Legislative Council.	Number of Members.
Madras . . . . .	118
Bombay . . . . .	111
Bengal . . . . .	125
United Provinces . . . . .	118
Punjab . . . . .	83
Bihar and Orissa . . . . .	98
Central Provinces . . . . .	70
Assam . . . . .	53

\*Section 7.

## † SECOND SCHEDULE.

## PART I.

The provisions of this Act set out in the first column of the following table shall be incorporated in the principal Act in the manner shown in the second column of that table, subject to the modifications specified in the third column of that table :—

TABLE.

Provision of Act.	Place and Method of Incorporation in the Principal Act.	Modifications.
Sec. 1	To be inserted as a new section (45A) after s. 45.	"this Act" to be substituted for "the Government of India Act, 1915." "principal Act)," for "the principal Act," and for "that Act."
Sec. 3 (1)	To be substituted for s. 46 (1).	—
Sec. 4	To be substituted for s. 52.	"this Act" to be substituted for "the principal Act."
Sec. 6	To be substituted for s. 49.	"any other rules made under this Act" to be substituted for "any rules made under the principal Act as amended by this Act."
Sec. 7, 8, 9	To be inserted as new sections (72A, 72B, and 72C), after s. 72.	"this Act" to be substituted for "the principal Act."
Sec. 10	To be inserted as a new section (80A) after s. 80.	"this Act" to be substituted for "the principal Act," "the commencement of the Government of India Act, 1919," to be substituted for "the commencement of this Act" and "such first mentioned Act" to be substituted for "that Act" in subsection (3).

Provision of Act.	Place and Method of Incorporation in the Principal Act.	Modifications.
Sec. 11 .	To be inserted as a new section (72D) after s. 72C.	The following sub-section to be substituted for subsection (1) :—  “(1) The provisions contained in this section shall have effect with respect to business and procedure in Governors’ legislative councils.” “this Act” to be substituted for “the principal Act.”
Sec. 12 .	To be inserted as a new section (81A) after s. 81.	“this Act” to be substituted for “the principal Act.”
Sec. 13 .	To be inserted as a new section (72E) after s. 72D.	---
Sec. 14 .	To be inserted as a new section (80B) after s. 80A.	The following new section to be inserted at the end thereof :—  “80c. It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the Governor, Lieut-Governor or Chief Commissioner, any measure affecting the public revenues of a province or imposing any charge on those revenues.”
Sec. 15	To be inserted as a new section (52A) after s. 52.	“this Act” to be substituted for “the principal Act or this Act” and for the principal Act and this Act.



Provision of Act.	Place and Method of Incorporation in the Principal Act.	Modifications.
Sec. 16 (1) and (3).	To be inserted as a new section (52B) after s. 52A.	"the Government of India Act, 1919," to be substituted for "this Act," where those words first occur, and "that Act" to be substituted for "this Act," where those words secondly occur, and "that Act or this Act" to be substituted for "this Act," where those words thirdly occur.
Sec. 16 (2).	To be inserted as a new sub sec. (2) of s. 84.	"Nothing in the Government of India Act, 1919, or this Act" to be substituted for "Nothing in this Act" and "this Act" to be substituted elsewhere for "the principal Act."
Sec. 17-23 inclusive.	To be inserted as new sections in lieu of ss. 63 and 64, and numbered 63, 63A, 63B, 63C, 63D, 63E, and 64.	"this Act" to be substituted for "the principal Act."
Sec. 24 (2).	To be inserted as sub-section (1) of section 67 in lieu of the existing sub-section (1)	"this Act" to be substituted for "the principal Act."
Sec. 24 (3)-(7).	To be inserted as sub-sections (3)-(7) of section 67 in lieu of the existing sub-section (3)	"this Act" to be substituted for "the principal Act."
Sec. 25 and 26	To be inserted as new sections (67A and 67B) after s. 67.	
Sec. 29.	To be inserted as a new section (43A) after s. 43.	

Provision of Act.	Place and Method of Incorporation in the Principal Act.	Modifications.
Sec. 33.	To be inserted as a new section (19A) after s. 19.	"this Act" to be substituted for "the principal Act" and "the Government of India Act, 1919," to be substituted for "this Act,"
Sec. 34.	To be inserted as new section (11) in lieu of sections 1 to 14 inclusive.	For the words from the beginning of the section down to and including the words "effect and" there shall be substituted the words "Subject to the provisions of the act."
Sec. 35.	To be inserted as a new section (29A) after s. 29.	"this Act" to be substituted for "the principal Act."
Sec. 36, 38, 39, and 40	To be inserted as new sections (96B, 96C, 96D, and 96E) after section 96A, constituting a new Part (VIIA) after Part VII.	"this Act" to be substituted for "the principal Act," and "the Government of India Act, 1919," to be substituted for "this Act," except in section 40.
Sec. 37 (1)	To be inserted as a new sub-sec. (6) of s. 97.	"this section" to be substituted for "section ninety-seven of the principal Act," and "any rules made under this sub-section" to be substituted for "any rules made under this section."
Sec. 41.	To be inserted as a new section (84A) after s. 84, constituting a new Part (VIA) after Part VI.	"The Government of India Act, 1919" to be substituted for "this Act."
Sec. 42.	To be inserted as a proviso to s. 124.	"Provided that notwithstanding anything in this Act" to be substituted for "Notwithstanding anything in section one hundred and twenty-four of the principal Act."

Provision of Act.	Place and Method of Incorporation in the Principal Act.	Modifications.
Sec. 44 .	To be inserted as a new section (129A) at the beginning of Part XII.	"this Act" to be substituted for "the principal Act" and for "this Act or under the principal Act."
Sec. 46 .	To be inserted as a new paragraph at the end of s. 131.	"in this Act" to be omitted, and "this Act" to be substituted for "the Principal Act" and for "the principal Act or this Act."
Sec. 47 (3) and (4)	To be inserted as new paragraph at the end of s. 130.	"this Act" to be substituted for "the principal Act" and for "the principal Act as amended by this Act."
First Schedule.	To be inserted in lieu of Schedule I.	

## PART II.

The provisions of the principal Act specified in the first column of this table shall be amended in the manner shown in the second column.

### Table.

Section of Act.	Amendment.
2	In sub-section (2) "or rules made thereunder" shall be inserted after "this Act."
	The following sub-section shall be substituted for sub-section (3) :— "(3) The salary of the Secretary of State shall be paid out of moneys provided by Parliament, and the salaries of his under-secretaries and any other expenses of his department may be paid out of the revenues of India or out of moneys provided by Parliament."

Section  
of  
Act.

## Amendment.

- 3 (1) "eight" shall be substituted for "ten," and "twelve", shall be substituted for "fourteen," and the following words shall be inserted at the end of the sub-section :—  
"Provided that the Council as constituted at the time of the passing of the Government of India Act, 1919, shall not be affected by this provision, but no fresh appointment or re-appointment thereto shall be made in excess of the maximum prescribed by this provision."
- 3 (3) "one-half shall be substituted for "nine," and "India" shall be substituted for "British India."
- 3 (4) "five years" shall be substituted for "seven years," and the following words shall be inserted at the end of the sub-section :—  
"Provided that the tenure of office of any person who is a member of the Council at the time of the passing of the Government of India Act, 1919, shall be the same as though that Act had not been passed."
- 3 (8) The following sub-sections shall be substituted for this sub-section :—  
"(8) There shall be paid to each member of the Council of India the annual salary of twelve hundred pounds : Provided that any member of the Council who was at the time of his appointment domiciled in India shall receive, in addition to the salary hereby provided, an annual subsistence allowance of six hundred pounds. Such salaries and allowances may be paid out of the revenues of India or out of moneys provided by Parliament.
- (9) Notwithstanding anything in any Act or rule, where any person in the service of the Crown in India is appointed a member of the Council before the completion of the period of such service required to entitle him to a pension or annuity, his service as such member shall, for the purpose of any pension or annuity which would have been payable to him on completion of such period be reckoned as service under the Crown in India whilst resident in india."

Section of Act.	Amendment.
5	The words of this section from and including the words "but every order " to the end of the section shall be omitted.
6	For "not less than five members are present" there shall be substituted "such number of members are present as may be prescribed by general directions of the Secretary of State."
8	For "week" there shall be substituted "month."
10	For "all business of the Council or committees thereof is to be transacted" there shall be substituted "the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council."
19	The words of this section from the beginning down to and including "Provided that" shall be omitted.
20(2)(d)	After "under this Act" there shall be inserted "except so far as is otherwise provided under this Act."
21	At the beginning of this section there shall be inserted "subject to the provisions of this Act and rules made thereunder."
27(9)	After "revenues of India" there shall be inserted "or out of moneys provided by Parliament."
29	In sub-section (1) at the beginning there shall be inserted the words :— "Subject to the provisions of this Act regarding the appointment of a High Commissioner for India."
30	After sub-section (1) the following sub-section shall be inserted. "(1A) A local Government may on behalf and in the name of the Secretary of State in Council raise money on the security of revenues allocated to it under this Act, and make proper assurances for that purpose, and rules made under this Act may provide for the conditions under which this power shall be exercisable."

Section  
of  
Act.

## Amendment.

- In sub-section (2) "sub-section (1) of this section" shall be substituted for this "section."
- 31 "Indian legislature" shall be substituted for "Governor General in Legislative Council."
- 33 At the beginning of the section there shall be inserted "Subject to the provisions of this Act and rules made thereunder."
- 35 This section shall be omitted.
- 37 "ordinary" in sub-sections (1) and (2) shall be omitted.  
In sub-section (2) for the words from and including "five or" to the end of the sub-section there shall be substituted "such as His Majesty thinks fit to appoint."  
In sub-section (3) "at the time of their appointment" shall be omitted, after "Scotland" there shall be inserted "or a pleader of a High Court," and "ten" shall be substituted for "five."  
In sub-section (4) for "person appointed as ordinary member of the council" there shall be substituted "member of the council (other than the Commander-in-Chief for the time being of His Majesty's forces in India)."
- At the end of the section the following new sub-section shall be inserted :—  
"(5) Provision may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's Executive Council in any case where such provision is not made by the foregoing provisions of this section."
- 37 The following section shall be substituted for section thirty-seven :—  
"37. If Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's executive Council he shall, subject to the provisions of this Act, have rank and precedence in the Council next after the Governor-General"
- 39 In sub-section (2) for "one ordinary member of the Council" there shall be substituted "one member of the Council (other than the Commander-in-Chief)."

Section of Act	Amendment.
40	At the end of sub-section (1) there shall be inserted—"and when so signed shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council."
42	For "ordinary member" there shall be substituted "member (other than the Commander-in-Chief)."
45	At the beginning of the section there shall be inserted "Subject to the provisions of this Act and rules made thereunder."
46	<p>The following sub-section shall be substituted for sub-section (2):—</p> <p>"(2) The Governors of the said presidencies are appointed by His Majesty by warrant under the Royal sign Manual, and the Governors of the said provinces shall be so appointed after consultation with the Governor-General."</p> <p>In subsection (3) "the Governors' provinces" shall be substituted for "those presidencies" and "province" shall be substituted for presidency."</p>
47	<p>In sub-section (2) "One at least of them must be a person who at the time of his appointment has been" shall be substituted for "Two at least of them must be persons who at the time of their appointment have been."</p> <p>The following sub-section shall be substituted for sub-section (3):—</p> <p>"(3) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive Council of the Governor of a province in any case where such provision is not made by the foregoing provisions of this section."</p>
48	"province" shall be substituted for "presidency."
50(2)	"province" shall be substituted for "presidency."
53(1)	For the words from the beginning down to "the Punjab and" (inclusive) there shall be substituted "The province of," and the words "with or without an executive Council" shall be omitted.

- | Section<br>of<br>Act. | Amendment.  |
|-----------------------|---|
| 57                    | At the end of the section there shall be inserted "an order made as afore-said shall not be called into question in any legal proceedings on the ground that it was not duly made by the Lieutenant-governor in Council"  |
| 58                    | "Assam, the Central Provinces," shall be omitted.   |
| 65                    | For "Governor-General in Legislative Council" there shall be substituted "Indian Legislature."  |
| 67                    | <p>"either chamber of the Indian Legislature" shall be substituted for "the Council."</p> <p>At the end of sub-section (2) the following shall be inserted—</p> <ul style="list-style-type: none"> <li>(i) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to Legislation by the Indian Legislature ; or</li> <li>(ii) repealing or amending any Act of a local Legislature ; or</li> <li>(iii) repealing or amending any Act or ordinance made by the Governor-General.</li> </ul> <p>(2A) Where in either chamber of the Indian Legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that, the Bill, or any clause of it, or the amendment, affects the safety or tranquility of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause, or amendment ; and effect shall be given to such direction."</p> |
| 68                    | <p>"Bill" shall be substituted for "Act" and "a Bill" for "and Act ;" "by both chambers of the Indian Legislature" shall be substituted for "at a meeting of the Indian Legislative Council," and "whether he was or was not present in Council at the passing thereof" shall be omitted.</p> <p>"A Bill passed by both chambers of the Indian Legislature shall not become an Act" shall be substituted for "An</p>  |



Section  
of  
Act.

Amendment.

Act of the Governor-General in Legislative Council has not validity."

"in Council" shall be inserted after "His majesty" and "to the Governor-General through the Secretary of State in Council" shall be omitted.

69 "Indian Legislature" shall be substituted for "Governor in Legislative Council;" "in Council;" shall be inserted after "His Majesty" and "through the Secretary of State in Council" shall be omitted.

70 This section shall be omitted.

71(2) "Indian Legislature" shall be substituted for Governor-General in Legislative Council."

72 "Indian Legislature" shall be substituted for "Governor-General in Legislative Council."

73 In sub-section (1) "a Governor or of" shall be omitted and "and of members nominated or elected as hereinafter provided" shall be substituted for "with the addition of members nominated or elected in accordance with rules made under this Act."

In sub-section (3) "as hereinafter provided" shall be substituted for "in accordance with rules made under this Act.")

74 This section shall be omitted.

75 This section shall be omitted.

76 In sub-section (1) "section" shall be substituted for "Act" and the following proviso shall be substituted for the existing proviso:—

"Provided that the number of members so nominated or elected shall not, in the case of the Legislative Council of a Lieutenant-Governor, exceed one hundred."

In sub-section (2) "non-officials" shall be substituted for "persons not in the civil or military service of the Crown in India."

In sub-section (4) "Indian Legislature or the local legislature" shall be substituted for "Governor-General in Legislative Council."

Section  
of  
Act

## Amendment

78 The following provision shall be inserted at the beginning of sub-section (1):—

“A Lieutenant-Governor or a Chief Commissioner who has a Legislative Council may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification of other-wise, prorogue the Council, and any meeting of the Legislative council of a Lieutenant-Governor or a Chief-Commissioner may be adjourned by the person presiding.”

In sub-section (2) “in accordance with rules made under this Act” shall be omitted.

For sub-section (3) the following sub-section shall be substituted:—

“(3) All question at a meeting of the Legislative Council of a Lieutenant-Governor or Chief Commissioner shall be determined by a majority of votes of the members present other than the Lieutenant-Governor, Chief Commissioner, or presiding member, who shall, however, have and exercise a casting vote in case of inequality of votes.

(4) Subject to rules affecting the Council, there shall be freedom of speech in the Legislative Councils of Lieutenant-Governors and Chief Commissioners. No person shall be liable to any proceedings in any court by reason of his speech or vote in those Councils or by reason of anything contained in any official report of the proceedings of those Councils.”

79 This section shall be omitted.

80 In sub-section (1) after “local Legislative Council,” there shall be inserted “(other than a Governor’s Legislative Council).”

Sub-section (2) shall be omitted.

In sub section (3) after “local Government” there shall be inserted “of a province other than a Governor’s province,” the word “Governor,” where it occurs immediately before the word “Lieutenant-Governor,” shall be omitted, and “Indian Legislature” shall be substituted for “Governor-General in Legislative Council.”

Section  
of  
Act.

Amendment.

At the end of the section the following new sub-section shall be inserted:—

“The local Government of any province (other than a Governor’s province) for which a local Legislative Council is hereafter constituted under this Act shall, before the first meeting of that Council, and with the sanction of the Governor-General in Council, make rules for the conduct of Legislative business in that Council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council).

(5) The local Legislature of any such province may, subject to the assent of the Lieutenant-Governor or Chief-Commissioner, alter the rules for the conduct of Legislative business in the local Council (including rules prescribing the mode of promulgation and authentication of laws passed by the Council) but any alteration so made may be disallowed by the Governor in Council, and if so disallowed shall have no effect.”

81 Throughout sub-sections(1) and (2) and in sub-section (3) where it first occurs, for “Act,” there shall be substituted “Bill” and in sub-section (1) “by” shall be substituted for “at a meeting of.”

For “an Act” there shall be substituted “a Bill” and for “has no effect” there shall be substituted “shall not become an Act.”

82 For “any such Act” where those words occur for the first and third times, there shall be substituted “an Act” and for those words where they occur for the second time there shall be substituted “the Act.”

In sub-section (1) after “His Majesty” there shall be in “Council” and the words through the Secretary of State in Council shall be omitted.

83 This section shall be omitted.

84 “an Act of the Indian legislature” shall be substituted for “a law made by the Governor-General in Legislative

Section  
of  
Act.

## Amendment.

- Council" and "non-official members" shall be substituted for "members not holding office under the Crown in India."
- In paragraph (c) "an Act of" shall be substituted for "a law made by."
- 86 In sub-section (d) "ordinary" shall be omitted, and after the words "Executive Council" where they first occur there shall be inserted the words "(other than the Commander-in-Chief)."
- 87 "ordinary" shall be omitted and after "Governor-General," where it occurs for the second time, there shall be inserted "other than the Commander-in-chief)."
- 89 In sub-section (f) for "ordinary member of the Council" where it occurs for the second time, there shall be substituted "member of the council (other than the Commander-in-Chief)."
- 90 In sub-section (1) after "Governor" there shall be inserted "of a presidency."
- In sub-section (4) 'ordinary' shall be omitted, and after, "executive council" there shall be inserted "(other than the Commander-in-Chief)."
- 92 "a member," shall be substituted for "an ordinary member" and for "any ordinary member," and after "executive council of the Governor-General" there shall be inserted "(other than the Commander-in-chief)"
- In sub-section (5)(a) "under this Act" shall be omitted.
- 93 (1) "either chamber of the Indian legislature" shall be substituted for "the Indian Legislative Council."
- 95 Before "offices" wherever that word occurs before "Officers" and before "promotions" where it occurs for the second time, there shall be inserted "military."
- 97 "Section 96 A of this Act" shall be substituted for "the foregoing section."
- 110 In sub-section (1) after "Governor or Lieutenant-Governor" there shall be inserted "and minister appointed under this Act."

Section  
of  
Act

## Amendment.

124 In sub-section (4) after "Lieutenant-Governor" where it secondly occurs, there shall be inserted "or being a minister appointed under this Act."

131 "Indian legislature" shall be substituted for "Governor-General in Legislative Council."

134(4) The following paragraph shall be substituted for paragraph (4):—

"(4) "Local Government" means, in the case of a Governor's province, Governor in Council or the Governor acting with ministers (as the case may require), and, in the case of a province other than a Governor's province, a Lieutenant-Governor in Council, Lieutenant-Governor or Chief Commissioner.

"Local Legislative Council" includes the Legislative Council in any Governor's province, and any other Legislative Council constituted in accordance with this Act.

"Local Legislature" means, in the case of a Governor's province, the Governor and the Legislative council of the province, and, in the case of any other province, the Lieutenant-Governor or Chief Commissioner in Legislative council."

135 The following section shall be substituted for section 135:—  
"135. This Act may be cited as the Government of India Act."

Second The following Schedule shall be substituted for the Second  
Schedule Schedule:—

## SECOND SCHEDULE.

## OFFICIAL SALARIES, ETC.

Officer.	Maximum Annual Salary.
Governor-General of India	Two hundred and fifty-six thousand rupees.
Governor of Bengal, Madras, Bombay and the United-Provinces.	One hundred and twenty-eight thousand rupees.

Section  
of  
Act.

Amendment.

Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
Governor of the Punjab Bihar and Orissa.	One hundred thousand rupees.
Governor of the Central Provinces.	Seventy-two thousand rupees.
Governor of Assam	Sixty-six thousand rupees.
Lieutenant-Governor	One hundred thousand rupees.
Member of the Governor-General's executive Council (other than the Commander-in-Chief).	Eighty thousand rupees.
Member of the executive Council of the Governor of Bengal, Madras, Bombay, and the United Provinces.	Sixty-four thousand rupees.
Member of the executive Council of the Governor of the Punjab and Bihar and Orissa.	Sixty thousand rupees.
Member of the executive Council of the Governor of the Central Provinces.	Forty-eight thousand rupees.
Member of the executive Council of the Governor of Assam.	Forty-two thousand rupees.

Third Schedule The following Schedule shall be substituted for the third Schedule\*—

### THIRD SCHEDULE.

#### OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.

##### *A.—Offices under the Governor-General in Council.*

1. The offices of secretary, joint Secretary, and deputy secretary in every department except the Army, Marine, Education, Foreign, Political, and Public Works Departments: Provided that if the office of secretary or deputy secretary in the Legislative Department is filled from

\* Section 98.

Section  
of  
Act.

Amendment.

among the members of the Indian Civil Service, then the office of deputy secretary or secretary in that department, as the case may be, need not be so filled.

2. Three offices of Accountants General.

*B.—Officers in the provinces which were known in the year 1861 as "Regulation Provinces."*

The following offices, namely :—

1. Member of the Board of Revenue.
2. Financial Commissioner.
3. Commissioner of Revenue.
4. Commissioner of Customs.
5. Opium Agent.
6. Secretary in every department except the Public Works or Marine Department.
7. Secretary to the Board of Revenue.
8. District or sessions judge.
9. Additional district or sessions judge.
10. District magistrate.
11. Collector of Revenue or Chief Revenue officer of a district.

Fifth Schedule "Indian legislature" shall be substituted in the heading for "Governor-General in Legislative Council."

### PART III.

Section  
of  
Act.

How dealt with.

16 To be omitted.

42 "and signifies his intended absence to the Council" shall be omitted.

45 (2) To be omitted.

51 "and signifies his intended absence to the Council" and "civil" shall be omitted.

NOTE.—In parts I and II of the Second Schedule to this Act references to any word or expression in any provision of the principal Act or this Act apply, unless the contrary is stated to that word or expression wherever the word or expression occurs in that provision.

- | Section<br>of<br>Act. | How dealt with.  |
|-----------------------|--|
| 54 (2)                | To be omitted.   |
| 55 (1)                | In paragraph (b) after "illness or otherwise" there shall be inserted "and for supplying a vacancy until it is permanently filled."  |
| 65                    | In sub-section (1) (d) "airmen" shall be inserted after "soldiers" and "or the Air Force Act" shall be inserted after "the Army Act."<br>In sub-section (2) (i) "the Air Force Act" shall be inserted after "the Army Act."  |
| 67                    | "naval, or air" shall be substituted for "or naval."   |
| 73 (2)                | To be omitted.   |
| 81                    | In sub-section (1) "whether he was or was not present in Council at the passing of the Act" shall be omitted.  |
| 85                    | The following proviso shall be inserted at the end of sub-section (3):—<br>"Provided that nothing in this sub section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons by the Secretary of State in council."      |
| 87                    | For "subject to the foregoing provisions of this Act as to leave of absence" there shall be substituted "save in the case of absence on special duty or on leave under a medical certificate."<br>After "council of a governor" there shall be inserted "or of a lieutenant-governor." |
| 88                    | To be omitted.   |
| 89                    | "entitled under a conditional appointment to succeed to the office of Governor-General, or" and "absolutely" shall be omitted, and for "that office" there shall be substituted "the office of Governor-General."  |
| 90                    | In sub-section (1) "conditional or other" shall be omitted.<br>In sub-section (3) for "this Act" there shall be substituted "section eightynine of this Act," and "respecting the assumption of the office by a person conditionally appointed to succeed thereto" shall be omitted.   |



Section  
of  
Act.

## How dealt with

- In sub-section (4) "conditional or other" shall be omitted.
- 91 In sub-section (1) "conditional or other" shall be omitted.
- 92 In sub-section (1) "conditional or other" shall be omitted.  
In sub-section (3) "then, if any person has been conditionally appointed to succeed to his office and is on the spot, the place of that member shall be supplied by that person, and if no person conditionally appointed to succeed to the office is on the spot" shall be omitted.  
In sub-section (4) "conditionally or" shall be omitted.
- 115 At the end of sub-section (1) the following shall be inserted :—  
"His Majesty may also by letters patent make such provision as may be deemed expedient for the exercise of the episcopal functions and ecclesiastical jurisdiction of the bishop during a vacancy of any of the said sees or the absence of the bishop thereof"
- At the end of sub-section (2) the following shall be inserted :—  
"and as metropolitan shall have, enjoy, and exercise such ecclesiastical jurisdiction and functions as His Majesty may by letters patent direct. His Majesty may also by letters patent make such provision as may be deemed expedient for the exercise of such jurisdiction and functions during a vacancy of the See of Calcutta or the absence of the bishop."
- 118 In sub-section (1) "and archdeacons" shall be omitted, and after "letters patent" there shall be inserted "and the archdeacons of those dioceses by their respective diocesan bishops."
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# Financial Relations Committee

The following is the full text of the report :—

## Chapter I.—Preliminary.

As a preliminary to constitutional reforms, the authors of the Montagu-Chelmsford Report urged the importance of a complete separation between the finances of the Central Government in India and those of the various Provincial governments. To this end they outlined the scheme described in Chapter VIII of their report. It abrogates the present system by which certain of the main heads of revenue and expenditure are divided between the central and the provincial exchequers ; some of these it hands over wholly to the Central Government, others wholly to the provinces. Inasmuch, however, as by this rearrangement the Government of India will lose heavily the scheme proposes to compensate them, to such extent as may be necessary, to prevent a deficit in their own budget, by contributions from the provinces ; and the power to levy such contributions is taken in section 1 (2) of the Government of India Act, 1919.

2. In assessing this levy the authors of the report met with a serious obstacle in the disparity which already exists between local Governments in the pitch of their revenues and the scale of their expenditure, a disparity deep rooted in the economic position of the different provinces, their revenue history and the tale of their oft-revised financial arrangements with the Central Government. For this inequality of burdens the authors of the report found no remedy in the several alternative methods of fixing the provincial contributions which they examined. Their ultimate choice fell upon an assessment in the ratio of the gross surplus which they estimated that each province would enjoy under the new allocation of resources. In recognition of the admitted fact that this method would largely affirm existing inequalities, they advised that the whole question should be re-investigated by the statutory commission after ten years' working.

3. The Government of India, in expressing their views on the scheme, pressed for an earlier treatment of the matter—vide paragraph 61 of their despatch of the 5th March 1919. They described

the feeling which had been aroused against the *prima facie* injustice of the exemplar figures given in the report. They urged that any such settlement should be recognised as temporary and provisional, and that steps be taken as soon as possible to fix a standard and equitable scale of contributions....towards which the provinces will be required to work by stages, as a condition of the new arrangements." They proposed the appointment of a Committee on Financial Relations to advise on the subject. This recommendation was accepted and endorsed by the Joint Select Committee of Parliament which sat on the Reform Bill. We were accordingly appointed by the Secretary of State, and given the following terms of reference :—

To advise on—

(a) the contributions to be paid by the various provinces to the Central Government for the financial year 1921-22 ;

(b) the modifications to be made in the provincial contribution thereafter with a view to their equitable distribution until there ceases to be an all India deficit ;

(c) the future financing of the provincial loan accounts and ;

(d) whether the Government of Bombay should retain any share of the revenue derived from income-tax.

Clause (d) of these instructions was a latter addition made at the instance of the Government of Bombay, and was not communicated to us until we had completed our consultations with several of the larger provinces.

4. We formally opened our inquiry at Delhi on the 5th February 1920. We then visited in turn Allahabad, Patna, Calcutta, Rangoon, Madras, Bombay and Lahore. Pressure of time compelled us to ask that the consideration of the cases of Assam and the Central Provinces should be undertaken at Calcutta and Bombay, respectively ; and we are indebted to the two Chief Commissioners for meeting us in this request at some inconvenience to themselves. Our procedure was to discuss the subjects of our inquiry in each province with the Member of the Executive Council who holds the financial portfolio, or, in provinces where there is no Council, with the Secretary in charge of the Financial Department, and with such other officials as those gentlemen introduced. Sir Nicholas Beatson-Bell, the Chief Commissioner of Assam, presented the case of his province in person. After taking the official evidence we met these members of the Finance Committee of the provincial legislature who were ready to favour us with their views. We finally received such members of the general public or representatives of public bodies as offered themselves for examination. In most cases we had informal consultations with the Head of the Province ; and the local Government of Bombay as a whole accorded us two interviews.

## Chapter II—the Government of India's Deficit

5. In order to effect the desired separation of central from provincial finance, the Montagu-Chelmsford Report (paragraph 203) proposes that the central exchequer should receive the whole of the Income-tax and the revenue from General Stamps; and that the provinces should retain the entire receipts from Land Revenue, Irrigation, Excise and Judicial Stamps, while they should be wholly responsible for the corresponding charges and for all expenditure in connection with famine. We read the Joint Select Committee of Parliament as approving this redistribution, and we considered that it would be outside our duty to advise any alteration of the scheme in the respect unless we found the strongest reason for a change. The argument addressed to us on this branch of the subject have related mainly to Income-tax and General Stamps. Certain local Governments have remonstrated against losing a share in those two heads, and the plea for making the whole or at least one half, of the income tax receipts a provincial asset was pressed with special earnestness in Bombay. Under our instructions we have to report on the point for that presidency, but we have found it difficult to treat the issue as applicable to one province only. The grounds of the Bombay claim are common to all provinces, and more especially to those in which large commercial and Industrial activities are centred.

6. The basic objection to the transfer of Income tax is that the provinces will thus be deprived of any share in a head of revenue which has recently shown a remarkable capacity for expansion, while they are left to finance their rapidly growing administrative needs with heads of revenue in which the increase is slow or problematical. How far the remarkable growth of the income-tax receipts in late years has been stimulated by war conditions, we have not attempted to estimate; but we are assured that large improvements are being made in the assessment staff and in their methods, and that a rapid and continuous growth in the return may be counted upon. Several Local Governments urge that the yield from income-tax is the only direct contribution to their public revenue which is made by the industrial wealth of their province, and Governments, which administer great mercantile and manufacturing centres like Calcutta and Bombay, claim special consideration for the heavy expenditure in which those centres involve them. To these arguments the Bombay Government added their apprehension that a time may come when a local Government may not be anxious to direct, or its officers zealous to enforce, the collection of a tax which bring no grist to the provincial mill. This

last contention was put forcibly ; but we presume that the Government of India will not be powerless to require the fulfilment by a provincial Government of its obligations under the new constitution, and that public service will not be revised in carrying out public duties with which they can be charged by law.

7. We doubt if it will be possible permanently to exclude Local Governments from some form of direct taxation upon the industrial and commercial earnings of their people ; and we recognise the natural anxiety of provinces to retain a share in a rapidly improving head of revenue. But, so far as the income-tax is concerned, we see no reasons to vary the scheme of the Report. We accept as valid the arguments given by its authors (paragraph 203) ; indeed, the second of these arguments seems to us capable of further extension in the case of public companies with share-holders scattered over India and elsewhere. We advise, therefore, that the whole of the income-tax proceeds be credited to the Central Government. Their needs in the near future are likely to be quite as great and to develop quite as rapidly, as those of the provinces ; while we do not apprehend that the richer provinces, such as Bombay, will be seriously handicapped in the administration of their own finances. We append, and shall allude to them hereafter, some figures which indicate that several of the provinces, and Bombay in particular, may look for reasonable elasticity in their revenues apart from the income-tax—an elasticity which will in most cases be encouraged by judicious capital outlay.

Percentage of growth in the Last Eight Years  
(1912-13 to Budget 1920-21)

Under the Proposed Provincial Heads.

Provinces.	Excise.	General Stamps.	Land Revenue and other Provincial heads.	All Provincial heads.
Madras ...	70·24	63·22	11·66	29·06
Bombay ...	102·57	119·31	32·00	52·43
Bengal ...	35·91	69·49	13·52	22·30
United Provinces.	43·70	45·75	17·13	23·82
Panjab ...	106·78	73·73	26·86	34·88
Burma ...	36·15	26·62	33·52	33·65
Bihar and Orissa	24·20	55·29	4·53	11·20
Central Provinces	49·00	48·25	26·30	33·18
Assam ...	44·26	22·22	20·60	28·00
All the nine Provinces. ...	62·27	69·24	20·98	30·48

8. The case of General Stamps is somewhat different. We have approached it, in the first instance, from the point of view of the poorer Provinces. Some of these, it seems clear, would start with little or no surplus revenue under the allocation of resources proposed in the report; and this would be both a misfortune in itself and at variance with what we believe to be the intention, if not the implied promise, of the report. No remedy suggests itself except some extension of the schedule of provincial heads; doles and temporary assistance would be inconsistent with the whole policy. In this view, and also because it will greatly facilitate our initial distribution of the central deficit, we advise that General Stamps be made a provincial head throughout. The arguments in the report for crediting it to the Central Government have not the same force as in the case of income-tax. We are not disposed to see grave disadvantage in different rates of stamp duty in different provinces, at least on some of the transactions for which duty has to be paid; and any uniformity which may be decided to be essential can always be secured by central legislation. Moreover, in this part of the arrangements, there is still the taint of a divided head, for General and Judicial Stamps are controlled by the same agency, and there is a good deal of miscellaneous work and outlay common to both. To make the whole of the Stamp revenue provincial would secure a genuine and complete separation of resources; and we trust that the reasons for this course will outweigh the only consideration on the other side, to wit, the extent to which the deficit in the all India budget will thereby be increased.

9. That deficit we accept, subject to certain arithmetical adjustments described below, as amounting in the year 1921.22 to 10 crores, composed of the 6 crores previously estimated by the Government of India plus 4 crores for the loss of General Stamps which we propose. We have carefully examined the basis of this calculation. Clearly, we have no authority to criticise the military and financial policy on which it so largely rests; and we have restricted ourselves to a scrutiny of the budget arrangements of the Government of India, past and present, and of the normal growth of their revenue and expenditure. Factors of great uncertainty,—the needs of India's defence, her tariff policy and the future of exchange among others,—complicate the estimate, but we are satisfied that the Government of India have made reasonable allowance for those considerations in their forecast of the immediate financial future. On our tour in the provinces, it has been pressed upon us that the Government of India ought to meet their own deficit by special taxation, and a high protective tariff has

frequently been mentioned to us as an easy solution of the problem. On this latter question we naturally express no opinion : but we cannot see that the Government of India would have any justification in imposing special taxation to make good their initial shortage of revenue, at a time when the shortage in question will be more than counterbalanced by the additional resources enjoyed by local Government. As we have said, therefore, we accept the estimate of the normal deficit for the first year of the new constitution. We cannot conceal from ourselves the disadvantages in ordinary circumstances of a system of provincial contributions and we anticipate that the Government of India will direct its financial policy towards reducing those contributions with responsible rapidity, and their ultimate cessation. We recognise that it would be imprudent on the part of the Central Government to give any guarantee of the precise pace of reduction ; but we think that a formal enunciation of the general policy would go some way to allay apprehensions which have been expressed to us. Such a policy would clearly be subject to the important reservation mentioned in the report, by which the Central Government, must remain empowered to levy special contributions, by way of temporary loan or otherwise, from the provinces in the event of any crisis of first importance.

10. In arriving at the figure which has actually to be distributed over the Provinces we have had to make certain adjustments. One of these is special and local, and we may dispose of it at once on the clear understanding that our treatment of the matter is entirely subject to the approval of the Government of India. It relates to the incidence of the cost of the military police force in Burma. The Government of the province, we understand, is discussing the point with the Government of India ; and their view, as expressed to us, is that 68 percent of the expenditure on the force is incurred for further defence and ought to be deficit to the central power. The figures originally before us had suggested a division of the cost of the force equally between the Government of India and Burma, but the Local Government now presses for more generous treatment and estimates that the share of the outlay on the military police which is equitably chargeable to the province is only 1742 lakhs against the 31·58 lakhs which had been taken in an earlier calculation. Subject to the assent of the Government of India, we have provisionally accepted this view ; and we are reducing the provincial expenditure accordingly, and making an equivalent addition to the charges, and thus to the deficit, of the Central Government. The main adjustments that have been suggested however, are concerned with the payment of pensions. At present the Central

Government is debited with all civil pensions drawn outside India whether the pensioner has served in a province or in an imperial department, and no debit is raised against the provinces concerned. On the other hand, pensioners whose service has been under the Central Government are paid by the province in which they reside, which received nothing in recoupment. It has been suggested that pensions paid outside India ought to be debited to the provinces when they are paid to provincial servants and simultaneously that the Government of India should relieve the provinces by paying their own pensioners. So far as the future is concerned, the propriety of this change is beyond question. Doubts, however, occurred to us regarding existing payments. Exchange complications and difficulties of exact allocation interfere with precision; while other and more general considerations point on the whole to the advisability of retaining on the books of the Central and Provincial Governments respectively the pensions for which they are at present responsible. We advise, therefore, that the readjustments of debits should take place only for pensions sanctioned on or after the 1st April 1921, and that pensions drawn before that date should be allowed to work themselves off on the present footing; this arrangement being definitely made a feature in the financial settlement. We may note incidentally with reference to a point raised by the Panjab, that provinces have no claim on any annuity fund in respect of those members of the Indian Civil Service from whose pay a 4 per cent deduction has until recently been made under the general rules in the Civil Service Regulations. There is in fact no annuity fund in such cases, and the deduction has simply lapsed to provincial revenues. The result of our recommendations in this matter is that it does not necessitate any immediate change in the all-India deficit; the net growth of their pension liabilities in future is a relatively small matter for which the provinces may be left to make provision without special assistance. The last adjustment to be made is on account of leave allowances drawn outside India. These are paid at present in the same way as pensions drawn outside India, in future they ought certainly to be debited to the provinces concerned. The normal liability on this account can approximately be calculated and the Secretary of State has given us a figure of £311,000 for the nine provinces affected by our enquiry. We have converted this at two shillings to the rupee, distributed the liability among the provinces and subtracted 31·10 lakhs from the Imperial charges and deficit. The latter thus works out to 10 crores plus 14·16 lakhs for the Burma Military police minus 31·10 lakhs for leave allowances; 983·06 lakhs net.



## Chapter III.—The Initial Contributions.

II. We can now proceed to fix the ratio in which each of the nine provinces should contribute to this figure of 983 lakhs in the year 1921-22. It will clear the ground to state at the outset a limiting consideration by which we have felt ourselves bound. This is an obligation to leave each province with a reasonable working surplus—a surplus which we should prefer to calculate so far as possible, with some relation to the general financial position of the province and the more imminent claims upon its resources. From the preliminary enquiry conducted at Simla in October last, it is apparent that in certain provinces no surplus at all and in others no adequate surplus, would have been possible without provincialisation of the revenue from General stamps and our task would thus in our judgement have been futile. Looked at somewhat differently, the limit we have imposed on ourselves is that in no case may a contribution be such as would force the province to embark on new taxation *ad hoc*, which to our minds would be an unthinkable sequel to a purely administrative rearrangement of abundant general resources. This limit, however, obvious as it is, makes it inevitable that the initial contributions should be in some measure arbitrary, dictated by the existing financial position of each province and not by any equitable standard such as its capacity to pay. Whatever standard ratio of contributions we might advise,—and a subsequent chapter will narrate our proposal in that direction,—it would have, were it to be applied immediately, the effect of starting some provinces on their new career with deficit, and we have thus to accept some measure of transition.

12. We have now to explain our reasons for suggesting a departure from the basis of initial contribution proposed in the Montague-Chelmsford report. We are aware that that basis was not lightly adopted, and only after consideration of various alternative basis,—population, provincial, revenue or expenditure, and the like—which for one reason or another were thought inapplicable to existing conditions. The basis of realised surplus was finally accepted partly because of the difficulty of finding a preferable alternative, partly because at all events it did not add to, though it continued, existing disparities of contribution. That it has been freely criticised in evidence before us as unequitable is certainly not fatal to it, for indeed every initial basis that can be suggested is open to some such criticism, but examination has revealed some objections to it which weigh with us.

13. Obviously if any inequalities of contribution exist, the basis chosen tends to stereotype them while by disclosing them it

renders them more difficult to justify ; for each province is now able to see more clearly than under the former system its relative contribution to the purse of the Government of India. While actual deficits appear, as has been said, in some provinces, others complain that their apparent surplus, if rightly understood, makes a real deficit. The prospect of arriving at any accepted figures as a basis appears remote. While the figures of the Simla Conference as to normal provincial revenue are accepted with minor modifications of detail, the estimates of normal expenditure in each province are strongly contested. How much of the expenditure held over during the war, are clearly imminent if not already sanctioned and ought to be included in the calculation of normal expenditure ? Where is the dividing line to be drawn between expenditure essential in the immediate future and expenditure foreseen as a future commitment ? Ought a province to be penalised by an increase of its contribution for strict adhesion to economy during the war while another province, which had increased its expenditure more freely is rewarded by a reduced contribution ? Is adequate allowance made for the special conditions of a largely undeveloped province like Burma, or for the circumstances of a recently established province like Behar and Orissa which claims that it has never received from its start resources adequate to its needs ? No satisfactory results seemed likely to be reached by our attempting to act as a court of appeal in contentions of this kind. Moreover the artificial and temporary nature of the basis cannot be overlooked. It is too much determined by mere accidents of budgetting in spite of attempts to clear away abnormalities of expenditure. But even if a normal surplus can be agreed at the moment, it tends to be obscured or to disappear in the budgets of succeeding years. How could a contribution be levied in later years on the basis of a so-called normal surplus which did doubtless once exist and might be said to be implied in the economic life of the province, but which in fact had disappeared to be replaced by a totally different surplus or perhaps by a deficit ? The best argument for the basis of realised surplus was that, when originally recommended, it did recognise existing facts, that it appeared to leave all the provinces collectively with improved finances and each individual province with a surplus, and that it proceeded upon the principle of creating the minimum of financial disturbance in introducing the Reforms scheme.

14. But these advantages can be secured by another solution, which after careful consideration we think is less open to question. It must be noted that even if the original classification of sources of revenue in the Montagu-Chelmsford report is strictly adhered to, each one of the provinces gains something in revenue, while some

gain very substantially in consequence of the introduction of the Reform scheme. If our recommendation as to General Stamps is accepted, the net increase in the total income of all the provinces taken together works out at 1850 lakhs. These additional resources represent what the central Government loses and the provinces gain under the redistribution. Some parts of them the former may reasonably retain and latter forego, so long as contributions to the central Government remain necessary. Even those provinces which were found at the Simla Conference to be in deficit secured some improvement in their revenues under the original classification, an improvement which will of course be increased by the addition of General Stamps. It has been urged upon us that this increased spending power will in fact be swallowed up by the higher cost of administration, by improvement of old services, or by inauguration of new. At this stage, however, we are considering merely the revenue side of the account. These future liabilities would have had to be faced by each province, if no Reforms Scheme had come. Each province is the better able to face them by reason of the additional resources it has secured. There is the advantage that the figures of normal revenue laid down at the Simla Conference, have been submitted to Local Governments, and with minor amendments, which we have been able to accept, are agreed as arithmetically correct. We propose, subject to the limiting consideration referred to in paragraph II, to assess the initial contribution on this increase of spending power in the provinces. The proposal has the merit of proceeding on the lines of minimum disturbance of the Financial position in each province. It will enable us to comply with the requirements of leaving each province with a surplus, and of inaugurating the new Councils without the necessity of resort to fresh taxation.

15. It is of importance to realise the nature of this transaction. In the first place it implies no judgment on the merits of previous financial settlements with any province. The increase in revenues comes to the provinces as a windfall, or as a bye-product of a constitutional change. It is not due as financial settlements have been in the past to consideration of the financial needs of individual provinces. It cannot properly be quoted as an admission of financial inequalities or as an act of tardy justice to the provinces that gain by it. Clearly it has come from political and not primarily from financial motives. It originates in the desire to secure a greater measure of devolution in the provinces, and in the endeavour to draw for this purpose a defensible line of financial partition between local Governments and the Government of India. While we consider that a windfall of this nature affords a suitable basis for

initial contributions by the provinces it is not surprising to find that its application requires some modifications in view of individual circumstances.

Secondly, on this basis the system of contribution appears in a less invidious light. The Central Government in the course of a political reconstruction gives to each of the local Governments some, and to some local Governments a very considerable, increase of spending power. Finding itself in a deficit as the result of this re-construction, it withholds from each province a certain proportion of the increased resources which it is intended that the province should eventually obtain. The Central Government does not come in as raiding the hard-won surplus of a province, nor ought the Central Government to be represented, if our proposal be accepted, as the pensioner of the provinces. It can hardly be contended that a province, which has at all events decidedly improved its finances as a result of the change, has valid ground of complaint, if it does not obtain immediately the full increment which it may subsequently realise. In the cases of the provinces that gain most, it would hardly be possible for any such province to spend in the first year the whole of its suddenly increased resources ; and if it were possible, it would be financially undesirable. We think therefore that this basis affords less scope for controversy and may be accepted as both more logical and more equitable than the Montagu-Chelmsford Report.

16. A detailed calculation (of which copies are being handed to the Government of India) has accordingly been made to ascertain the net additional revenues with which each province will be endowed by the new allocation of resources. Starting on the assumption that our proposal about General Stamps will be adopted, we have worked on the figures of moral income which were accepted at the Simla Conference and on figures similarly accepted when we came to tabulate the expenditure which will be transferred to and from provinces. We took the calculations with us on tour, discussed them with the officials of each province, and made several correction at their instance. The figures of increased spending power on which we ultimately acted may be regarded as agreed figures. Certain provinces urged that they are unduly favourable to our argument, as the great rise this year in the income-tax receipts means a correspondingly greater loss to local Governments when they cease to enjoy a share of those receipts. Provision however clearly demands that all our standard should be based on figures for the same years ; and there would be advantage in elaborating a series of normal statistics different from those which specifically prepared

to assist us in our enquiry. We were also pressed to make allowances for schemes of future expenditure to which special importance was attached ; but to this we have been unable to accede as it is not our task to make budget fore-cast.

17. Having arrived in the manner indicated at the extra spending power which will accrue to each province, we first considered the possibility of securing the All-India deficit by an even rate on all the provincial figures. So far-reaching, however, is the disparity in the financial strength of the provinces that even this apparently equitable arrangement would in some cases have caused hardship. The extreme case would be that of a province which has been depending largely on doles from the central exchequer ; and difficulty arises wherever the provincial revenues are so pinched that the new resources have had to be seriously discounted to provide for the normal expenditure. We have therefore had to consider each province on its merits, relying both on the abundant statistical information which was placed at our disposal and on the insight which we gained into the general situation by our local consultations with the best expert opinion. Our recommendations may be conveniently set out in the following statement, which explains itself when read with the succeeding paragraphs :—

## [IN LAKHS]

Province.	Increased spending power under new distribution of revenues.	Contributions as recommended by the Committee.	Increased spending power left after contributions are paid.
Madras	... 5,76	3,48	2,28
Bombay	... 93	56	37
Bengal	... 1,04	63	41
United Provinces	3,94	2,40	1,57
Panjab	... 2,89	1,75	1,14
Burma	... 2,46	64	1,82
Bihar and Orissa...	51	Nil.	51
Central Provinces	52	22	30
Assam	... 42	15	27
TOTAL	... 1,850	9,83	8,67

18. The provinces which caused us most anxiety were Burma and Orissa. In the former the coming improvement in its revenues has been largely discounted by the heavy commitments necessary to

give Burma the responsible administrative conveniences which it now lacks. The province, as we have satisfied ourselves, is far behind India proper in what its Government does for the people. Profits flowing from the rice control scheme, and a wise outlay of borrowed capital, should enable rapid progress now to be made but the heavy recurring expenditure which development entails will be more imminent than the new income which it will yield. We are convinced that a very substantial share of the surplus revenues of this province should be left free, and our calculations have led us to fix on them only about six and half per cent of the total deficit ; this happens, as will be seen below, to equal what we determine as the standard ratio of contribution. In Behar and Orissa the local Government is quite the poorest in India and every special skill will be required in developing its resources. Heavy initial expenditure lies in front of what is still a new province and here is a wholly abnormal want of elasticity about its revenues. We cannot advise that any share of the deficit should be taken from Bihar and Orissa in 1921-22 and we expect that the province will be sufficiently burdened by having to work up to its standard ratio of contribution in the same period as the rest of India.

19. The two provinces which come next in difficulty are the Central Provinces and Assam. They have a small margin at the best of times, and their need for development is great. The former has a more rapidly expanding revenue than the latter, but on the other hand, its finances are more liable to disturbance by famine. On the whole we do not feel that it would be just to ask more than roughly 40 per cent of their windfall in both cases, and we have based our recommendations accordingly.

20. The special treatment of these four provinces left us with 882 lakhs to allocate among their five richer neighbours ; and this sum would be secured by a flat rate of about 60 per cent on their new revenues. After the most careful scrutiny of their various peculiarities we see no marked necessity for differential treatment inters. In Madras and the United Provinces the windfall is so vast that it could not be employed profitably for several years. On the other hand, their revenues do not promise any remarkable elasticity, economy has been strictly practised, and considerable arrears of administrative progress are now due. In the Panjab also the windfall is large and balances are full while here the revenues move upwards with marked ease. The position is less simple for diverse reasons in Bombay and Bengal. The former has attained a scale of expenditure far above the Indian average and the pace of expansion of its revenues is distinctly higher than in any other province. We believe that it could without inconvenience forego

the greater part of its new resources at the outset, and help the less fortunate provinces from its own abundant balance. But we hesitate to differentiate it prejudicially from the other richer provinces. Bengal on the other hand has a low scale of expenditure and an inelastic revenue: and it will receive only a very moderate start in its new financial career. But its size, intrinsic wealth and general economic possibilities prevented us from treating it more favourably than the other provinces in this category.

21. On a general view of the table the heavy contributions of Madras, the United Provinces and the Punjab doubtless call for comment. Between them these three provinces have to bear 35·5 24·5 and 8 per cent respectively, of the total initial contribution making 78 per cent of the whole. Conversely, the light assessments of Bengal and Bombay contributing 6·5 and 5·5 per cent respectively of the levy will be noticed. But the character of the transaction as described above must be borne in mind. If the contribution represented some new and additional burden extracted from the wealths of the provinces, objection might fairly be taken. But it really amounts to the requirement that Madras is called upon to content itself in the initial year with an improvement in its revenue of 228 lakhs instead of a possible maximum of 576; United Provinces with an improvement of 157 lakhs instead of a possible 397 and the Punjab with an improvement of 114 lakhs instead of a possible 289. The weight of the contribution by the Provinces is the best index to the amount of their gains, both immediate, and, as will be seen, eventual, under the new financial scheme. Just because immediately they are substantial gainers, they can best afford to postpone the full enjoyment of their ultimate advantages.

22. If on the other hand it is urged that some provinces, Bengal and Bombay for instance, escape too lightly under this assessment, the answer is two-fold. In the first place they are light gainers in the new distribution of revenues, Bengal having a gross gain of 104 lakhs and Bombay of 93. Secondly, we have not overlooked the claim of certain provinces to exemption from the levy in *virtue* of their indirect contributions through customs and income-tax to the Government of India. While this claim is often over-stated and exaggerated, we recognised that provinces with commercial capitals such as Calcutta and Bombay make larger contributions through these channels than purely agricultural provinces; and it will be noticed that those provinces where payment to the Government of India through customs and income-tax is presumably highest make a light contribution to the provincial levy.

## Chapter IV.—The Standard Contributions.

23. Our recommendation as to the ratio on which the Provinces can properly be called upon to contribute the deficit of the Government of India in the first year of contribution (paragraph 17 above) is based, as already stated, upon consideration of their present financial positions and of the immediate improvement which will be effected therein by the redistribution of revenues under the Reforms Scheme. This ratio is not intended in any manner to represent the ideal scale on which the Provinces should in equity be called upon to contribute, nor is it possible that it should do so. In making our recommendation as to the initial contributions we have had to consider established programmes of taxation and expenditure, and legislative and administrative expectations and habits, that cannot without serious mischief be suddenly adjusted to a new and more equitable ratio of contribution widely different (as an equitable ratio must admittedly be) from that of the past. It is accordingly inevitable, if such mischief is to be avoided, that the ratio for initial contributions should bear little relation to that which would be ideally equitable. But an initial ratio of this nature can only be defended as a measure of transition. It is necessary, but it is necessary only in order to give time to the Provinces to adjust their budgets to a new state of affairs; and we are clearly of opinion that no scheme of contribution can be satisfactory that does not provide for a more equitable distribution of the burden of the deficit within a reasonable time.

24. The ideal basis for such an equitable distribution can be stated with some certainty. To do equity between the Provinces it is necessary that the total contribution of each to the purse of the Government of India should be proportionate to its capacity to contribute. Unfortunately the application of this principle in practice presents many difficulties.

25. The total contribution of a Province to the purse of the Government of India will consist in future of its direct contribution towards the deficit, together with its indirect contribution (as at present) through the channels of customs, income-tax, duties on salt, etc. A valuation of the amount of this indirect contribution involves an exact arithmetical calculation of the proportion of the total sum collected under each of these heads of revenue which is properly attributable to each Province. For such a calculation the statistical information available as to the distribution of the revenue between the Provinces is not adequate. Under the head of customs the locality in which dutiable articles are consumed cannot be traced with sufficient accuracy; under that of income-tax, questions of



the utmost complexity arise as to the true local source of the income assessed—questions which the information in the hands of the assessing officers does not enable them to answer. We have nevertheless carried our investigation into this matter as far as available information permits, and by means of an examination of the statistics concerning the distribution of articles which have paid customs duty, and of those concerning the place of collection of income-tax, together with a review of the more general circumstances of the economic life of the Provinces we have found it possible to arrive at an estimate of the weight which should be given in fixing the basis for equitable contributions by the Provinces, to their indirect contributions.

26. Turning to the other circumstance which must be considered in fixing the ideal basis for an equitable distribution—the capacities of the Provinces to contribute—we find practical difficulties no less great than in the exact arithmetical calculation of the quantities involved. The capacity of a province to contribute is its taxable capacity, which is the sum of the incomes of its tax-payers, or the average income of its tax-payers multiplied by their number. In this connection also the statistical information available does not permit of any direct valuation. Enquiries of much interest have been made at various times with a view to calculating the wealth of the respective Provinces or the average income of their respective inhabitants, and the results provided much useful information; but in the absence of any general assessment of incomes, and of any census of production, they cannot be considered reliable as a direct estimate of the quantities concerned. In the absence of any such direct estimate, various circumstances have been suggested to us as capable of serving, taken separately or together, as an indirect measure of the relative taxable capacities of the Provinces. Amongst these may be mentioned gross population, urban and rural, or industrial and agricultural population; cultivated area; provincial revenue, or provincial expenditure; amount of income-tax collected; and, more indirect, amount of salt or of foreign textile goods consumed in each Province. As measures of comparison all these are open to obvious criticisms, both on theoretical and on practical grounds. We are of opinion, however, that some of them are not without their value as a substitute for the direct information which is not available and they have indeed assisted us in coming to a general conclusion as to the relative taxable capacities of the provinces. But we are also of opinion that none of them is capable of serving, either alone or in conjunction with others, as an accurate or even an approximate arithmetical measure of those capacities.

27. For the reasons given, we believe it to be useless to attempt to state a formula, to serve as a basis for a standard ratio of contributions, capable of automatic application from year to year by reference to ascertained statistics. Although the formula could be stated, the statistics which would be needed for its application are not available. But we are able, after surveying such figures as are available and after close enquiry into the circumstances of each province, to recommend a fixed ratio of contributions which in our opinion represents a standard and equitable distribution of the burden of any deficit. In arriving at this ratio we have taken into consideration the indirect contributions of the provinces to the purse of the Government of India, and in particular the incidence of customs duties and of income-tax. We have enquired into the relative taxable capacities of the provinces, in the light of their agricultural and industrial wealth and of all other relevant incidents of their economic positions including particularly their liability to famine. It should be observed that we have considered their taxable capacities not only as they are at the present time, or as they will be in the immediate future but from the point of view also of the capacity of each province for expansion and development agriculturally and industrially, and by respect of imperfectly developed assets such as minerals and forests. We have also given consideration to the elasticity of the existing heads of revenue which will be secured to each province, and to the availability of its wealth for taxation. After estimating, to the best of our ability, the weight which should be given to each of these circumstances, we recommend the following fixed ratio as representing an equitable basis for the relative contributions of the provinces to the deficit.

## Standard Contributions

Province.	Per cent contribution to deficit.
Madras ...	17
Bombay ...	13
Bengal ...	19
United Provinces ...	18
Panjab ...	9
Burma ...	6·5
Bihar and Orissa ...	10
Central Provinces ...	5
Assam ...	2·5

100 per cent.

28. This, in our opinion, is the ratio which the provinces should in equity be called upon to contribute after an interval of time sufficient to enable them to adjust their budgets to the new

conditions. We further recommend that the interval allowed for adjustment should not be unduly prolonged. The initial ratio which we have proposed is a practical necessity, but the provinces which will be called upon to pay thereunder more than they should pay in equity, ought not to be required to bear that burden for a longer period or to a greater extent than is required to prevent dislocation of the provincial budgets. We propose, therefore, that contributions should be made on the standard ratio to any deficit that there may be in the seventh year of contribution and that the process of transition from the initial to the standard ratio should be continuous, beginning in the second year of contribution, and proceeding in six equal annual steps. The following table shows the initial, intermediate and ultimate ratio of contribution for the seven years, in accordance with our recommendations. The initial ratio is the rate per cent of the actual initial contributions recommended in paragraph 17 above :—

Per cent contributions to deficit in seven consecutive years  
beginning with the first year of contribution.

(rounded off to even halves).

Province.	1st. year.	2nd. year.	3rd. year.	4th. year.	5th. year.	6th. year.	7th. year.
Madras	35·5	32·5	29·5	26·5	23	20	17
Bombay	5·5	7	8	9·5	10·5	12	13
Bengal	6·5	8·5	10·5	12·5	15	17	19
United Provinces	24·5	23·5	22·5	21	20	19	18
Panjab	18	16·5	15	13·5	12	10·5	9
Burma	6·5	6·5	6·5	6·5	6·5	6·5	6·5
Bihar and Orissa	Nil.	1·5	3	5	7	8·5	10
Central Provinces	2	2·5	3	3·5	4	4·5	5
Assam	1·5	1·5	2	2	2	2	2·5
	100%	100%	100%	100%	100%	100%	100%

29. It should be observed that, if the Government of India fulfil their announced intention of gradually wiping out their deficit, against any increase in the proportion which a province will be called upon to contribute from year to year, there will be set off a reduction in the total to be contributed.

30. The scheme of contribution that we recommend above complies we believe with the two essential conditions, that any immediate dislocation in the provincial budgets must be avoided, and that the admitted inequalities of the proportions in which, in the past, the

provinces have contributed to the purse of the Government of India must be rectified within a reasonable time. The scheme is subject to the disadvantage that the ratio which we recommend is fixed and cannot hold good for an indefinite period. We are of opinion however that it will do substantial equity between the provinces until such a period of time has passed as may be required to effect a very substantial change in their relative states of economic development, a change scarcely to be effected in less than at least a decade.

Chapter V.—Provincial Loan Account.

31. The future financing of the Provincial Loan Account is a less controversial subject than the others that we have had to investigate. It is commonly agreed that it is the natural result of the Reforms Scheme that the provinces should for the future finance of their own loan transactions and that joint accounts of this nature between them and the Government of India should be wound up as quickly as possible. In our discussions of this subject with the Provincial Governments we have found little or no difference of opinion as to this, and our task has been only to ascertain the wishes of the Provincial Government as to the amount of its account which each can take over on 1st, April 1921, and how soon it can take over the rest.

32. The Government of Bengal, the Panjab, the Central Provinces and Assam signified to us their willingness to take over the whole of their respective loan accounts on 1st, April 1921 and we recommend that it should be arranged for them to do so. In some cases it was stipulated as a condition that the provincial Government should be allowed to use for the purpose any part of its balance, including the earmarked portion. We see no objection to the condition, which accords with the intention expressed in paragraph 208 of the Montagu-Chelmsford Report.

33. The Government of Bombay, the United Provinces, Burma, Bihar and Orissa signified to us their willingness to take over a portion of their provincial loan accounts on 1st, April 1921 and the remainder in instalments to cover varying periods. The Government of Madras alone expressed unwillingness to take over any part of the account. Evidence was given before us, however, by officials of that Government to the effect that they would not object to do so if the transfer could be effected by fresh credit arrangements. In view of this and of the great improvement which will be effected in the financial position of the province by the redistribution of revenues under the Reforms Scheme, we are of opinion that there is no reason why Madras should form an exception to the general scheme for the transfer of their accounts which we recommend below for application to those provinces which are prepared to take over a part of their accounts forthwith.

34. In the case of those provinces, namely, Bombay, the United Provinces, Burma, Bihar and Orissa, and including as stated, Madras, we recommend that the Provincial Loan Account should be "funded," at a rate of interest calculated at the weighted average of the three rates of three and half, four and half and five and half per cent now paid on varying portions of the account. Whatever portion of the account so "funded" the province is prepared to take over forthwith should, we recommend, be written off against an equal portion of the provincial balance as from 1st, April 1921; and the balance of the "funded" account should remain outstanding as a debt from the province to the Government of India. On the outstanding balance the province should pay interest at the calculated average rate, and also an annual charge for redemption enough to redeem the debt in a fixed number of years, which should not, save in exceptional circumstances, exceed twelve. The provinces should further have the option to make in any year a large repayment that the fixed redemption charge.

35. The provinces in question will probably not be in a position to state the exact proportion of their respective accounts which they are prepared to take over, or the exact number of years that they will require to repay the balance, until their closing balance on 1st April 1921, are more precisely ascertained, and also until they know what contributions will be required from them. It appears therefore that these details must be left for determination by future negotiations. We are however of opinion that a maximum period of twelve years is ample in order to enable any province to clear its account and that in some cases the period may with advantage be substantially reduced. We further consider that the fixing of a definite term of repayment and the provision of an annual charge for redemption within that term are essential in order to secure the desired clearing accounts between the Provincial Governments and the Government of India.

#### Conclusion.

36. Several other matters were referred to in the course of our enquiry, on which a recommendation appeared to us to be outside the strict scope of our reference. We propose, however, to communicate our views upon some of them informally to the Government of India.

37. In conclusion we wish to express our indebtedness to our secretary Mr. Dina Nath Dutt, for his careful and methodical assistance in our work. We have also derived very great benefit from the association with us of Mr. C. G. Sim, C.I.E., whom the Government of India attached to us as liaison officer.

MESTON.

CHARLES ROBERTS.

E. HILTON YOUNG.

# Rules Under the Govt. of India Act Council of State and Legislative ASSEMBLY

In exercise of the powers conferred by sub-sections (1) and (5) of section 67 and sub-section (1) of section 129-A of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules for the Chambers of the Indian Legislature.

## Short Title.

1. These rules may be called the Indian Legislative Rules.

## Definitions.

2. In these rules, unless the context otherwise requires,—

“Assembly” means the Legislative Assembly ;

“Chamber” means a Chamber of the Indian Legislature ;

“Council” means the Council of State ;

“Finance Member” means the member of the Assembly appointed by the Governor General to perform the functions assigned to the Finance Member under these rules ;

“Gazette” means the Gazette of India ;

“member” means a member of either Chamber ;

“member of the Government” means a member of the Governor-General’s Executive Council, and includes any member to whom such a member may delegate any function assigned to him under these rules ;

“resolution” means a motion for the purpose of discussing a matter of general public interest ;

“standing order” means a standing order of either Chamber ;

“Secretary” means the Secretary to either Chamber, and includes any person for the time being performing the duties of the Secretary.

**Temporary Chairman.**

3. At the commencement of every Session, the Governor-General shall nominate from amongst the members of the Assembly a panel of not more than four Chairmen, any one of whom may preside over the Assembly in the absence of the President and Deputy President, when so requested by the President, or in his absence, by the Deputy President.

**President and Secretary.**

4. The Deputy President and any Chairman of the Assembly and any person appointed by the Governor General to preside over the Council in the absence of the President shall, when presiding over the Assembly or the Council, as the case may be, have the same powers as the President when so presiding, and all references to the President in these rules shall, in these circumstances be deemed to be references to any such person so presiding.

5. The Secretary, and such assistants of the Secretary as the Governor-General considers to be necessary, shall be appointed by order in writing by the Governor General and shall hold office during his pleasure.

**Non-official Business.**

6. The Governor-General, after considering the state of business of the Chamber, shall, at the commencement of each Session of that Chamber, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in that Chamber, and may, from time to time during the Session, alter such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence.

**On Questions.**

7. The Governor-General may within the period of notice disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the Governor-General in Council, and if he does so, the question or part of the question shall not be placed on the list of questions.

8. (1) A question may be asked for the purpose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed :

Provided that no question shall be asked in regard to any of the following subjects, namely :—

- (i) any matter effecting the relations of His Majesty's Government, or of the Governor General in Council, with any foreign State ;

- (ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territories of any such Prince or Chief ; and
  - (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of his Majesty's Dominions.
- (2) The decision of the Governor-General on the point whether any question is or is not within the restrictions imposed by sub-rule (1) shall be final.

9. In matters which are or have been the subject of controversy between the Governor General in Council and the Secretary of State or Local Government, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of facts.

#### Supplementary Questions.

10. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given :

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rules as to the subject matter of questions, and in that case the question shall not appear on the record of the proceedings of the Chamber.

#### Motion for Adjournments.

11. A motion for an adjournment of the business of either Chamber for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Governor-General which shall not be refused, except for reasons which would justify disallowance of a resolution.

12. The right to move the adjournment of either Chamber for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely ;—

- (i) not more than one such motion shall be made at the same sitting ;—
- (ii) not more than one matter can be discussed on the same motion, and the motion must be restricted to a specified matter of recent occurrence ;
- (iii) the motion must not revive discussion on a matter which has been discussed in the same Session ;
- (iv) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given ; and



- (r) the motion must not deal with a matter on which a resolution could not be moved.

#### Quorum.

13. In the case of the Council the presence of at least fifteen members, and in the case of the Assembly the presence of at least twenty-five members, shall be necessary to constitute a meeting of the Council or of the Assembly for the exercise of its powers.

#### Language of Proceedings.

14. The business of the Indian legislature shall be transacted in English provided that the President may permit any member unacquainted with English to address the Council in a vernacular.

#### Points of Order.

15. (1) The President shall decide all points of order which may arise, and his decision shall be final.

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

16. The President, after having called the attention of the Chamber to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

#### Withdrawal of Member

17. (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order.

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Chamber, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meetings of the Chamber for any period not longer than the remainder of the Session, and the member so directed shall absent himself accordingly.

(3) The President may, in the case of grave disorder arising in the Chamber, suspend any sitting for a time to be named by him.

#### Notice and Publication of Bills

18. The Governor-General may order the publication of any Bill (together with the Statement of Objects and Reasons accompa-

nying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced it shall not be necessary to publish it again.

19. (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Government of India Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises, whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the Governor-General, and his decision on the question shall be final.

(4) The period of notice of a motion for leave to introduce a Bill under this rule shall be one month or, if the Governor-General so directs, a further period not exceeding in all two months.

20. As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette.

#### **Certification of Governor-General**

21. If the Governor-General certifies that a Bill or any clause of a Bill or an amendment to a Bill affects the safety or tranquility of British India or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motions in connection with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down in the list of business, it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Chamber of the Governor-General's action, and the Chamber shall forthwith, without debate, proceed to the next item of business.

#### **Disallowance of Resolutions**

22. The Governor-General may, within the period of notice, disallow any resolution or any part of a resolution, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the Governor-General in Council, and, if he does so,

the resolution or part of the resolution shall not be placed on the list of business.

### Restrictions of Discussion

23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Governor-General in Council, and no resolution shall be moved in regard to any of the following subjects, namely :—

- (i) any matter affecting the relations of His Majesty's Government, or of the Governor-General or the Governor-General in Council, with any foreign State ;
  - (ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty, of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief ; and
  - (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.
- (2) The decision of the Governor-General on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final.

24. A copy of every resolution which has been passed by either Chamber shall be forwarded to the Governor-General in Council, but any such resolution shall have effect only as a recommendation to the Governor-General in Council.

### On Bills

25. Every Bill which has been passed by the originating Chamber shall be sent to the other Chamber, and copies of the Bill shall be laid on the table at the next following meeting of that Chamber.

26. At any time after copies have been laid on the table, any member acting on behalf of Government in the case of a Government Bill or, in any other case, any member may give notice of his intention to move that the Bill be taken into consideration.

27. On the day on which the motion is set down in the list of business, which shall, unless the President otherwise directs, be not less than three days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration.

28. On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.

29. Any member may (if the Bill has not already been referred to a Select Committee of the originating Chamber or to a Joint Committee of both Chambers, but not otherwise) move as an amendment that the Bill be referred to a Select Committee, and if such motion is carried, the Bill shall be referred to a Select Committee, and the standing orders regarding Select Committees on Bills originating in the Chamber shall then apply.

#### Passing of Bills

30. If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration, and the provisions of the standing orders of the Chamber regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply.

31. If the Bill is passed without amendment and the originating Chamber is the Legislative Assembly, a message shall be sent to the Legislative Assembly intimating that the Council of State have agreed to the Bill without any amendments. If the originating Chamber is the Council of State, the Bill with a message to the effect that the Legislative Assembly have agreed to the Bill without any amendments shall be sent to the Council of State.

32. If the Bill is passed with amendments, the Bill shall be returned with a message asking the concurrence of the originating Chamber to the amendments.

33. When a Bill which has been amended in the other Chamber is returned to the originating Chamber, copies of the Bill shall be laid on the table at the next following meeting of that Chamber.

34. After the amended Bill has been laid on the table, any member acting on behalf of Government in the case of a Government Bill or, in any other case, any member after giving three days' notice or with the consent of the President without notice, may move that the amendments be taken into consideration.

#### On Amendments to Bills

35. (1) If on a motion that the amendments be taken into consideration is carried, the President shall put the amendments to the Chamber in such manner as he thinks most convenient for their consideration.
- (2) Further amendments relevant to the subject matter of the amendments made by the other Chamber may be moved, but no further amendment shall be moved to the Bill, unless it is consequential upon, or an alternative to an amendment made by the other Chamber.

36. (1) If the Chamber agrees to the amendments made by the other Chamber, a message intimating its agreement shall be sent to that Chamber.
- (2) If the Chamber disagrees with the amendments made by the other Chamber, or any of them, the Bill with a message intimating its disagreement shall be sent to that Chamber.
- (3) If the Chamber agrees to the amendments or any of them with further amendments or proposes further amendments in place of amendments made by the other Chamber, the Bill as further amended with a message to that effect shall be sent to the other Chamber.
- (4) The other Chamber may either agree to the Bill as originally passed in the originating Chamber or as further amended by that Chamber, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the originating Chamber has disagreed.
- (5) If a Bill is returned with a message intimating that the other Chamber insists on amendments to which the originating Chamber is unable to agree, that Chamber may either—

(i) report the fact of the disagreement to the Governor-General, or

(ii) allow the Bill to lapse.

37. A joint sitting of both Chambers shall be convened by the Governor-General by notification in the Gazette.

38. The President of the Council shall preside at a joint sitting and the procedure of the Council shall, so far as practicable, apply.

39. The members present at a joint sitting may deliberate and shall vote together upon the Bill at last proposed by the originating Chamber and upon amendments, if any, which have been made therein by one Chamber and not agreed to by the other, and any such amendment which are affirmed by a majority of the total members of the Council and the Assembly present at such sitting shall be taken to have been carried; and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Council and the Assembly present at such sitting, it shall be deemed to have been duly passed by both Chambers.

40. (1) If both Chambers agree to a meeting of members for the purpose of discussing a difference of opinion which has arisen between the two Chambers, a conference shall be held.

(2) At a conference each Chamber shall be represented by an equal number of members.

(3) The conference shall determine its own procedure.

(4) The time and place of the conference shall be fixed by the President of the Council.

41. Messages between one Chamber and the other Chamber shall be conveyed by the Secretary of the one Chamber to the Secretary of the other, or in such other manner as the Chambers may agree.

#### Joint Committees.

42. (1) If a resolution is passed in the originating Chamber recommending that a Bill should be committed to a Joint Committee of both Chambers, a message shall be sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution.

(2) If the other Chamber agrees, a motion shall be made in each Chamber nominating the members of that Chamber who are to serve on the Committee. On a Joint Committee equal numbers of members of each Chamber must be nominated.

(3) The Chairman of the Committee shall be elected by the Committee. He shall have only a single vote, and, if the votes are equal, the question shall be decided in the negative.

(4) The time and place of the meeting of the Committee shall be fixed by the President of the Council.

#### The Budget.

43. A statement of the estimated annual expenditure and revenue of the Governor-General in Council (hereinafter referred to as "the Budget") shall be presented to each Chamber on such day or days as the Governor-General may appoint.

44. (1) A separate demand shall ordinarily be made in respect of grant proposed for each Department of the Government provided that the Finance Member may in his discretion include in one demand grants proposed for two or more Departments, or make a demand in respect of expenditure which cannot readily be classified under particular Departments.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

(3) Subject to these rules the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Assembly.

**The Budget Debate.**

45. The Budget shall be dealt with by the Assembly in two stages, namely :—

- (i) a general discussion ; and
- (ii) the voting of demands for grants.

46. (1) On a day to be appointed by the Governor General subsequent to the day on which the Budget is presented and for such time as the Governor General may allot for this purpose, the Assembly shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the Assembly.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time limit for speeches.

**Voting of Grants.**

47. (1) Not more than fifteen days shall be allotted by the Governor General for the discussion of the demands of the Governor General in Council for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor General to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at five o'clock, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants.

**Motions.**

48. (1) No motion for appropriation can be made except on the recommendation of the Governor General communicated to the Assembly.

(2) Motions may be moved at this stage to omit or reduce any grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

**Excess Grants.**

49. When money has been spent on any service, for which the vote of the assembly is necessary during any financial year, in excess

of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly by the Finance Member and shall be dealt with in the same way by the Assembly as if it were a demand for a grant.

#### **Additional Grants.**

50. (1) An estimate shall be presented to the Assembly for a supplementary or additional grant when—

- (i) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or
- (ii) a need arises during the current year for expenditure for which the vote of the Assembly is necessary upon some new service not contemplated in the Budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Assembly as if they were demands for grants.

#### **Committee on Public Accounts.**

51. (1) As soon as may be after the commencement of each financial year a Committee on Public Accounts shall be constituted for the purpose of dealing with the audit and appropriation accounts of the Governor General in Council and such other matters as the Finance Department may refer to the Committee.

(2) The Committee on Public Accounts shall consist of not more than twelve members including the Chairman, of whom not less than two-thirds shall be elected by the non-official members of the Assembly according to the principle of proportionate representation by means of the single transferable vote. The remaining members shall be nominated by the Governor-General.

(3) The Finance Member shall be Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

#### **Duty of Finance Committee.**

52. (1) In scrutinising the audit and appropriation accounts of the Governor General in Council, it shall be the duty of the Committee to satisfy itself that the money voted by the Assembly has been spent within the scope of the demand granted by the Assembly.

(2) It shall be the duty of the Committee to bring to the notice of the Assembly—

- (i) every re-appropriation from one grant to another grant ;



- (ii) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision for which has been specifically reduced by a vote of the Assembly ; and
- (iii) all expenditure which the Finance Department has requested should be brought to the notice of the Assembly.

# Rules Under the Govt. of India Act Provincial Legislative Council

In exercise of the powers conferred by sub-section (6) of section 72 D and sub-section (1) of section 129 A of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules for the Legislative Council of the Governor of.....

## Short Title.

1. These rules may be called the.....Legislative Council Rules.

## Definitions.

2. In these rules—

“Council” means the Legislative Council of.....;

“Finance Member” means the member of the Council appointed by the Governor to perform the function of the Finance Member under these rules;

“Gazette” means the ..... Gazette;

“Member” means a member of the Council;

“Member of the Government” means a member of the Executive Council or a Minister, and includes any member to whom such member may delegate any function assigned to him under these rules.

“Resolution” means a motion for the purpose of discussing a matter of general public interest;

“Standing order” means a standing order of the Council; and

“Secretary” means a Secretary to the Council and includes any person for the time being performing the duties of the Secretary.

## Temporary Chairman.

3. At the commencement of every Session, the Governor shall nominate from amongst the members of the Council a panel of not more than four Chairmen, any one of whom may preside over the Council in the absence of the President and Deputy President, when

so requested by the President or, in his absence, by the Deputy President.

4. The Deputy President and any Chairman of the Council shall, when presiding over the Council, have the same powers as the President when so presiding, and all references to the President in the rules and standing orders shall, in these circumstances, be deemed to be references to any such person so presiding.

#### Council Secretary.

5. The Secretary and such assistants of the Secretary as the Governor considers to be necessary shall be appointed by order in writing by the Governor and shall hold office during his pleasure.

#### Days of Business.

6. The Governor, after considering the state of business of the Council, shall, at the commencement of each Session, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in the Council, and may from time to time during the Session alter such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence.

#### On Questions.

7. The Governor may, within the period of notice, disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the local Government, and if he does so, the question or part of the question shall not be placed on the list of questions.

8. (1) A question may be asked for the purpose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed :

Provided that, no question shall be asked, in regard to any of the following subjects, namely :—

- (i) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State ;
- (ii) any matter affecting the relations of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief, and
- (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of his Majesty's Dominions,

(2) The decision of the Governor on the point whether any question is or is not within the restrictions imposed by sub-rule (1) shall be final.

#### **Matters of Controversy.**

9. In matters which are or have been the subject of controversy between the Governor-General in Council or the Secretary of State and the local Government no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of facts.

#### **Supplementary Question.**

10. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given.

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rule as to the subject matter of questions, and in that case the question shall not appear on the record of the Proceedings of the Council.

#### **Motion for Adjournments.**

11. A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Governor, which shall not be refused except for reasons which would justify the disallowance of a resolution.

12. The right to move the adjournment of the council for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely :—

- (i) not more than one such motion shall be made at the same sitting ;
- (ii) not more than one matter can be discussed on the same motion, and the motion must be restricted to specific matter of recent occurrence ;
- (iii) the motion must not revive discussion on a matter which has been discussed in the same Session ;
- (iv) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given ; and
- (v) the motion must not deal with a matter on which a resolution could not be moved.

#### **Quorum.**

13. The presence of at least...members shall be necessary to constitute a meeting of the Council for the exercise of its powers.

## Language of the Council.

14. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the province, provided that the President may call on any member to speak in any language in which he is known to be proficient.

## Points of Order.

15. (1) The President shall decide all points of order which may arise, and his decision shall be final.

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

16. The President, after having called the attention of the Council to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

## Presidents Powers.

17. (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order.

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and the member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same Session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the Session, and the member so directed shall absent himself accordingly.

## On Bills.

(3) The President may in the case of grave disorder arising in the Council suspend any sitting for a time to be named by him.

18. The Governor may order the publication of any Bill (together with the Statement of Object and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and if the Bill is afterwards introduced, it shall not be necessary to publish it again.

19. (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice

of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Government of India Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the authority which would have power to grant the sanction if it were necessary, and the decision of that authority on the question shall be final.

(4) The period of notice of a motion for leave to introduce a Bill under this rule shall be as follows, namely :—

(a) if the Bill relates to a transferred subject—fifteen days ;

(b) if the Bill relates to a reserved subject—one month or, if the Governor so directs, a further period not exceeding in all two months.

20. As soon as may be after a Bill has been introduced, the Bill unless it has already been published, shall be published in the Gazette.

#### **Certification of Bills.**

21. If the Governor certifies that a Bill, or any clause of a Bill, or any amendment to a Bill, affects the safety or tranquility of a Province or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motion in connection with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down in the list of business, it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Council of the Governor's action, and the Council shall forthwith without debate proceed to the next item of business.

#### **Disallowance of Resolutions.**

22. The Governor may, within the period of notice, disallow any resolution or any part of a resolution, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the local Government, and if he does so, the resolution or part of the resolution shall not be placed on the list of business.

#### **On Resolutions.**

23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Government, and no resolution

shall be moved in regard to any of the following subjects, namely :—

- (i) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State :
  - (ii) any matter affecting the relations of any of the foregoing authorities, with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief, or to the administration of the territory of any such Prince or Chief : and
  - (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.
- (2) The decision of the Governor on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final.

#### Effect of Resolutions.

24. A copy of every resolution which has been passed by the Council shall be forwarded to the Government, but any such resolution shall have effect only as a recommendation to the Government.

#### The Budget.

25. A statement of the estimated annual expenditure and revenue of the Province (hereinafter referred to as "the Budget") shall be presented to the Council on such day as the Governor may appoint.

26. (1) A separate demand shall ordinarily be made in respect of the grant proposed for each Department of the Government, provided that the Finance Member may in his discretion, include in one demand grants proposed for two or more Departments, or make a demand in respect of expenditure, such as Famine Relief and Insurance and Interest, which cannot readily be classified under particular Departments. Demands affecting reserved and transferred subjects shall, so far as may be possible, be kept distinct.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

(3) Subject to these rules, the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Council.

#### The Budget Debate.

27. The Budget shall be dealt with by the Council in two stages, namely :—

- (i) a general discussion ; and
- (ii) the voting on demands for grants,

28. (1) On a day to be appointed by the Governor subsequent to the day on which the Budget is presented and for such time as the Governor may allot for this purpose, the Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage nor shall the Budget be submitted to the vote of the Council.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches.

29. (1) Not more than twelve days shall be allotted by the Governor for the discussion of the demands of the Local Government for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at...o'clock, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants.

30. (1) No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council.

(2) Motions may be moved at this stage to omit or reduce any grant or any item in a grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

(4) No motion shall be made for the reduction of a grant as a whole until all motions for the omission or reduction of definite items within that grant have been discussed.

#### Excess Grant.

31. When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member and shall be dealt with in the same way by the Council as if it were a demand for a grant.



## Additional Grant.

32. (1) An estimate shall be presented to the Council for a supplementary or additional grant when,

- (i) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or
- (ii) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the Budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants.

## Committee on Public Accounts.

33. (1) As soon as may be after the commencement of each financial year, a Committee on Public Accounts shall be constituted for the purpose of dealing with the audit and appropriation account of the Province and such other matters as the Finance Department may refer to the Committee.

(2) The Committee on Public Accounts shall consist of not more than . . . members including the chairman, of whom not less than two thirds shall be elected by the non-Official members of the Council according to the principle of proportionate representation by means of the single transferable vote. The remaining members shall be nominated by the Governor.

(3) The Finance Member shall be the Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

## Duty of the Committee.

34. (1) In scrutinising the audit and appropriation accounts of the province, it shall be the duty of the Committee to satisfy itself that the money voted by the Council has been spent within the scope of the demand granted by the Council.

(2) It shall be the duty of the committee to bring to the notice of the Council—

- (i) every re-appropriation from one grant to another grant ;
- (ie) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision from which has been specifically reduced by a vote of the Council ; and

(iii) all expenditure which the Finance Department has requested should be brought to the notice of the Council.

# Rules for The Legislative Assembly

*The following rules relating to the Legislative Assembly and the Council of State, have been made under sections 63 A (1) and (2) and 64 (1) (a), (b), (c), (d), (e) and (f) of the Government of India Act and submitted for the sanction of the Secretary of State in Council, May 1920.*

## Composition of Legislative Assembly.

1. The Legislative Assembly shall consist of—
  - (1) one hundred and two elected members, and
  - (2) forty-one members nominated by the Governor General, of whom not more than twenty-six may be officials, and one shall be a person nominated as the result of an election held in Berar.

## Elected Members—Constituencies.

2. The elected members shall be elected by the constituencies specified in Schedule I to these rules subject to the provisions of that Schedule in regard to constituencies entitled to elect in rotation, and the number of member to be elected by each constituency shall be as stated therein against that constituency.

## General disqualifications for being elected.

3. (1) A person shall not be eligible for election as a Member of the Legislative Assembly if such person—
  - (a) is not a British subject ; or
  - (b) is a female ; or
  - (c) is already a member of any legislative body constituted under the Act ; or
  - (d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court ; or
  - (e) has been adjudged by a competent court to be of unsound mind ; or
  - (f) is under 25 years of age ; or
  - (g) is an undischarged insolvent ; or
  - (h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part ;

Provided that, if the Ruler of a State in India or any subject of such a State is not ineligible for election to the Legislative Council of a province, such Ruler or Subject shall not by reason of being a British subject be ineligible for election to the Legislative Assembly by any constituency in that province :

Provided further that the disqualification mentioned in clause (d) may be removed by an order of the Governor General in Council in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence.

(3) A person who has been convicted of an offence under Chapter IX-A. of the Indian Penal Code punishable with imprisonment for a term exceeding six months or has been reported by Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, shall not be eligible for election for five years from the date of such conviction or of the finding of the Commissioners, as the case may be ; and a person reported by such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) A person who having been a candidate or an election agent at an election has failed to lodge the return of election expenses hereinafter prescribed or has lodged a return which is found either by Commissioners holding an election inquiry or by a Magistrate in a judicial proceeding to be false in any material particular shall be disqualified for five years from the date of the election from being nominated as a candidate at any other election :

Provided that either of the disqualifications mentioned in sub-rules (3) and (4) of this rule may be removed by an order of the Governor General in council in that behalf.

#### Special qualifications for election in case of certain constituencies

4. (1) A person shall not be eligible for election as a member of the Legislative Assembly to represent—

(a) a general constituency in the presidency of Madras or in the presidency of Bengal, unless his name is registered on the electoral roll of the constituency or of another constituency of the same communal description situate in the same presidency ; or

(b) a general constituency in the presidency of Bombay, unless his name is registered on the electoral roll of the constituency and he has resided in the constituency for a period of six months prior

to the first day of January in the year in which the constituency is called upon to elect a member or members : provided that a candidate eligible for election in any such constituency shall be eligible for election in a constituency of the same communal description if the whole or part of either constituency is included in the same district ; or

(c) a general constituency in the province of Bihar and Orissa or in the province of Assam, unless his name is registered on the electoral roll of the constituency or of any other general constituency in the same province ; or

(d) a Muhammadan or non-Muhammadan constituency in the United Provinces of Agra and Oudh, unless his name is registered on the electoral roll of a Muhammadan or non-Muhammadan constituency in that province ; or

(e) a general constituency in the Punjab or in the Central Provinces, or a European constituency in the United Provinces of Agra and Oudh, or a constituency in the Province of Burma or any special constituency, unless his name is registered on the electoral roll of the constituency-

(2) For the purposes of these rules—

(a) "general constituency" means a non-Muhammadan, Muhammadan, European, non-European, or Sikh constituency ; and

(b) "special constituency" means a Landholders' or Indian Commerce constituency.

#### The right to elect—General conditions of registration and disqualifications.

5. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency and who is not subject to any of the disqualifications hereinafter set out, namely :—

(a) is not a British subject ; or

(b) is a female ; or

(c) has been adjudged by a competent court to be of unsound mind ; or

(d) is under 21 years of age :

Provided that, if the Ruler of a State in India or any subject of such a State is not disqualified for registration on the electoral roll of a constituency of the Legislative Council of a province, such Ruler or subject shall not by reason of not being a British subject be disqualified for registration on the electoral roll of any constituency of the Legislative Assembly in that province :

Provided further that, if a resolution is passed by the Legislative Assembly recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Governor General in Council shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex :

Provided further that no person shall be entitled to have his name registered on the electoral roll of more than one general constituency.

(2) If any person is convicted of an offence under Chapter IX-A. of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is reported by the Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or if not on the electoral roll, shall not be so registered for a like period ; and if any person is reported by such Commissioners as guilty of any other corrupt practice as specified in the said Schedule, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be registered for a like period :

Provided that the Governor General in Council may direct that the name of any person to whom this sub-rule applies shall be registered on the electoral roll.

#### Qualification of electors.

6. (1) The qualifications of an elector for a general constituency shall be such qualifications based on—

- (i) community,
  - (ii) residence, and
  - (iii) (a) ownership or occupation of a building, or
  - (b) assessment to or payment of municipal or cantonment of rates or taxes or local cesses ; or
  - (c) assessment to or payment of income tax ; or
  - (d) the holding of land,
- as are specified in Schedule II to these rules in the case of that constituency.

(2) The qualifications of an elector for a special constituency shall be the qualifications specified in Schedule II to these rules in the case of that constituency.

**Electoral roll.**

7. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which, and the time within which, any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the Revising Authority.

(2) The regulations for the time being in force in any province for the purpose of elections to the Legislative Council of that province in regard to the following matters, namely,—

(1) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll,

(2) the time at which the roll shall be prepared,

(3) the publication of the roll in the constituency to which it relates,

(4) the mode in which and the time within which claims and objections may be preferred,

(5) the constitution and appointment of Revising Authorities to dispose of claims and objections,

(6) the manner in which notices of claims or objections shall be published,

(7) the place, date, and time at which and the manner in which claims or objections shall be heard,

shall apply for the purpose of the holding of elections within that province to the Legislative Assembly :

Provided that the Governor-General in Council may, by notification in the Gazette of India, direct that such modifications and adaptations as he may specify shall be made in the application of those regulations.

(3) The orders made by the Revising Authority shall be final, and the electoral roll shall be amended in accordance therewith and shall, as so amended, be republished in the case of each province in such manner as may be prescribed by the regulations aforesaid for the republication of electoral rolls of constituencies of the Legislative Council.

(4) The electoral roll shall come into force from the date of such republication, and shall continue in force for a period of three years or for such less period as the Governor General in Council may

by regulation prescribe, and after the expiration of such period a fresh roll shall be prepared in accordance with these rules.

(5) If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purposes of that election continue to operate as the electoral roll for the constituency.

#### Right to vote.

8. Every person registered on the electoral roll for the time being in force for any constituency shall while so registered be entitled to vote at an election of a member or members for that constituency provided that no person shall vote in more than one General constituency.

#### Nomination of candidates.

9. (1) Any person may be nominated as a candidate for election in any constituency for which he is eligible for election under these rules.

(2) On or before the date on which a candidate is nominated, the candidate shall make in writing and sign a declaration appointing either himself or some other person who is not disqualified under these rules for the appointment to be his election agent, and no candidate shall be deemed to be duly nominated unless such declaration has been made.

(3) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

#### Election.

10. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature before such time as the Governor General in Council may fix in this behalf exceeds that of the vacancies, a poll shall be taken.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies, all such candidates shall be declared to be elected, and the Governor General shall, by notification in the Gazette of India call for fresh nominations for the remaining vacancies, and if any such are received, shall call upon the constituencies concerned to elect members to fill these vacancies.

(4) Votes shall be given by ballot and in General and Landholders' constituencies in person. No votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected: provided that no

elector shall give more than one vote to any one candidate except in the case of the plural-member constituencies in the presidency of Bombay, in which constituencies any elector may accumulate his votes upon one candidate or distribute them amongst the candidates as he pleases.

(6) Votes shall be counted by the Returning Officer, and any candidate, or, in the absence of the candidate, a representative duly authorised by him in writing, shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given to be elected.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer in such manner as he may determine.

(9) The Returning Officer shall without delay report the result of the election to the Secretary to the Government of India in the Legislative Department, and the name or names of the candidate or names of the candidate or candidates elected shall be published in the Gazette of India.

#### Regulations regarding the conduct of elections.

11. The regulations for the time being in force in any province for the purpose of elections to the Legislative Council of that province in regard to the following matters, namely,—

(1) the form and manner in, and the conditions on, which nominations may be made, and for the scrutiny of nominations,

(2) the appointment of a Returning Officer for each constituency and for his powers and duties,

(3) the division of General and Landholders' constituencies into polling areas and the appointment of polling stations for these areas,

(4) the appointment of officers to preside at polling stations, and the duties of such officers,

(5) the checking of voters by reference to the electoral roll,

(6) the manner in which votes are to be given, both generally and in the case of illiterate voters or voters under physical or other disability,

(7) the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors,



(8) the scrutiny of votes.

(9) the safe custody of ballot papers, and other election papers, the period for which such papers shall be preserved, and the inspection and production of such papers, and,

(1) the conduct of elections generally,

shall apply for the purpose of the holding of elections within that province to the Legislative Assembly :

Provided that the Governor-General in Council may, by notification in the Gazette of India, direct that such modifications and adaptations as he may specify shall be made in the application of these regulations.

#### Multiple elections.

**12.** (1) If any person is elected by more than one constituency, he shall, by notice in writing signed by him and delivered to the Secretary to the Government of India in the Legislative Department within seven days from the date of the publication of the result of such election in the Gazette of India, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(2) When any such choice has been made, the Governor-General shall call upon any constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-rule (1) of this rule, the elections of such person shall be void and the Governor-General shall call upon the constituency or constituencies concerned to elect another person or persons.

#### Election agents and expenses—Disqualification for being an election agent.

**13.** No person shall be appointed an election agent who is himself ineligible for election as being subject to the disqualification mentioned in sub-rule (3) of rule III.

**14.** (1) Within one month or such longer period as the Governor General may allow after the date of the declaration of the result of the election, every candidate, either personally or through his election agent, shall cause to be lodged with the returning Officer a return of his election expenses containing the particulars specified in Schedule III to these rules.

(2) Every such return shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interests for expenses incurred on account of or in respect of the conduct and management of the

election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

(3) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in the said Schedule and shall be made on oath or affirmation before a Magistrate.

(4) The Governor General in Council shall cause to be prepared in such manner, and maintained for such time, as he may direct, a record showing the names of all candidates at every election under these rules and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

15. Every election agent shall keep regular books of account in which the particulars of all expenditure of the nature referred to in rule XIV shall be entered, whether such expenditure is incurred by the candidate or by the election agents or by any person under the direction of the candidate or the election agent.

#### Nominated Members.

16. (1) Save as expressly provided in these rules in regard to the nomination of a person elected in Berar, no person shall be nominated to the Legislative Assembly who—

(a) is not a British subject ; or

(b) is a female ; or

(c) is already a member of any legislative body constituted under the Act ; or

(d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court ; or

(e) has been adjudged by a competent court to be of unsound mind ; or

(f) is under 25 years of age ; or

(g) is an undischarged insolvent ; or

(h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part :

Provided that, if the Ruler of a State in India or any subject of such a State is not disqualified for nomination to the Legislative Council of a province, such Ruler or subject shall not by reason of not being a British subject be disqualified for nomination to the Legislative Assembly to represent that province :

Provided further that the disqualification mentioned in clause (d) may be removed by an order of the Governor-General in Council in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for nomination for five years from the date of the expiration of the sentence.

(3) A persons who has been convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or has been reported by Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, shall not be eligible for nomination for five years from the date of such conviction or of the finding of the Commissioners, as the case may be ; and a person reported by such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) A person who having been a candidate or an election agent at an election has failed to lodge the return of election expenses prescribed in these rules or has lodged a return which is found either by Commissioners holding an inquiry or by a Magistrate in a judicial proceeding to be false in any material particular shall not be eligible for nomination for five years from the date of the election :

Provided that either of the disqualifications mentioned in sub-rules (3) and (4) of this rule may be removed by an order of the Governor-General in Council in this behalf.

#### Terms of office of nominated member.

17. (1) A nominated non-official member shall hold office for the duration of the Legislative Assembly to which he is nominated.

(2) Official members shall hold office for the duration of the Legislative Assembly to which they are nominated or for such shorter period as the Governor-General may, at the time of nomination, determine.

#### Obligation to take oath—Taking of oath.

18. Every person who is elected or nominated to be a member of the Legislative Assembly shall, before taking his seat, make at a meeting of the Legislative Assembly an oath or affirmation of his allegiance to the Crown in the following form, namely :—

I, A. B. having been <sup>elected</sup><sub>nominated</sub> a member of this Assembly do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

**Effect of subsequent disabilities or failure to take oath.**

19. If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clauses (a), (d), (e), (g), and (h) of subrule (1) or in sub-rules (2), (3) and (4) of rule III or of rule XVI, as the case may be, or fails to make oath or affirmation prescribed by rule XVIII within such time as the Governor General considers reasonable, the Governor-General shall, by notification in the Gazette of India, declare his seat to be vacant.

**Vacancies.**

20. (1) When a vacancy occurs in the case of an elected member by reason of his election being declared void or his seat being declared vacant, or by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, the Governor-General shall, by notification in the Gazette of India, call upon the constituency concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification.

(2) If a vacancy occurs in the case of a nominated member, the Governor-General shall nominate to the vacancy a person having the necessary qualification under these rules.

**First constitution of the Legislative Assembly.**

21. (1) As soon as conveniently may be after these rules come into force, a Legislative Assembly shall be constituted in accordance with their provisions.

For this purpose the Governor-General shall, by notification in the Gazette of India, call upon the constituencies referred to in rule 11 to elect members in accordance with these rules within such time as may be prescribed by such notification, and shall make such nominations as may be necessary to complete the Legislative Assembly before the date fixed for its first meeting.

(3) If any difficulty arises as to the preparation or publication of the first electoral roll or the holding of the first elections after the commencement of these rules, the Governor-General in Council may by order do any matter or thing which appears to him necessary for the proper preparation or publication of the roll or for the proper holding of the elections.

**General Elections.**

22. (1) On the expiration of the duration of a Legislative Assembly or on its dissolution, a general election shall be held in order that a new Legislative Assembly may be constituted,

(2) On such expiration or dissolution, the Governor-General shall, by notification in the Gazette of India, call upon the constituencies referred to in rule II to elect members in accordance with these rules within such time after the date of expiration or dissolution as may be prescribed by such notification :

Provided that, if the Governor-General thinks fit, such notification may be issued at any time not being more than three months prior to the date on which the duration of the Legislative Assembly would expire in the ordinary course of events.

(3) Before the date fixed for the first meeting of the Legislative Assembly, the Governor-General shall make such nominations as may be necessary to complete the Legislative Assembly.

**23.** As soon as may be after the expiration of the time fixed for the election of members at any general election, the names of the members elected for the various constituencies at such election shall be notified in the Gazette of India.

## Rules for The Council of State

### Composition of Council of State.

**1..** The Council of State shall consist of—

- (1) thirty-three elected members, and
- (2) twenty-seven members nominated by the Governor General, of whom not more than twenty may be Officials, and one shall be a person nominated as the result of an election held in Berar.

### Elected Members—Constituencies.

**2.** The elected members shall be elected by the constituencies specified in Schedule I to these rules, subject to the provisions of that Schedule in regard to constituencies entitled to elect in rotation, and the number of members to be elected by each constituency shall be as stated therein against that constituency.

### General disqualifications for being elected.

**3.** (1) A person shall not be eligible for election as a Member of the Council of State if such person—

- (a) is not a British subject ; or
- (b) is a female ; or
- (c) is already a member of any legislative body constituted under the Act ; or

(d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court; or

(e) has been adjudged by a competent court to be of unsound mind; or

(f) is under 25 years of age; or

(g) is an undischarged insolvent; or

(h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part:

Provided that, if the Ruler of a State in India or any subject of such a State is not ineligible for election to the Legislative Council of a province, such Ruler or subject shall not by reason of not being a British subject be ineligible for election to the Council of State by any constituency in that province:

Provided further that the disqualification mentioned in clause (d) may be removed by an order of the Governor General in Council in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence.

(3) A person who has been convicted of an offence under Chapter IX-A. of the Indian Penal Code punishable with imprisonment for a term exceeding six months or has been reported by Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, shall not be eligible for election for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) A person who having been a candidate or an election agent at an election has failed to lodge the return of election expenses herein after prescribed or has lodged a return which is found either by Commissioners holding an election inquiry or by a Magistrate in a judicial proceeding to be false in any material particular shall be disqualified for five years from the date of the election for being nominated as a candidate at any other election:

Provided that either of the disqualifications mentioned in sub-rules (3) and (4) of this rule may be removed by an order of the Governor General in Council in that behalf.

**Special Qualifications for election in case of Constituencies.**

4. (1) A person shall not be eligible for election as a Member of the Council of State to represent—

(a) a general constituency in the presidency of Bengal, unless his name is registered on the electoral roll of the constituency or of another constituency of the same communal description situate in the presidency ; or

(b) a general constituency in the United Provinces of Agra and Oudh or in the province of Bihar and Orissa or in the province of Assam, unless his name is registered on the electoral roll of the constituency or of another general constituency in the same province ; or

(c) a general constituency in the presidency of Madras or in the presidency of Bombay or in the Punjab or in the Central Provinces or in the province of Burma or any special constituency, unless his name is registered on the electoral roll of the constituency.

(2) For the purposes of these rules—

(a) "general constituency" means any constituency which is not a special constituency ; and

(b) "special constituency" means a European Commerce constituency.

**The right to elect—General conditions of registration and disqualifications.**

5. (1) Every persons shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency and who is not subject to any of the disqualifications hereinafter set out, namely :—

(a) is not a British subject ; or

(b) is a female ; or

(c) has been adjudged by a competent court to be of unsound mind ; or

(d) is under 21 years of age :

Provided that, if the Ruler of a State in India or any subject of such a State is not disqualified for registration on the electoral roll of a constituency of the Legislative Council of a province, such Ruler or subject shall not by reason of not being a British subject be disqualified for registration on the electoral roll of any constituency of the Council of State in that province :

Provided further that, if a resolution is passed by the Council of State recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Governor-General in Council shall make regulations providing that women, or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex ;

Provided further that no person shall be entitled to have his name registered on the electoral roll of more than one general constituency.

(2) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is reported by Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph I, 2 or 3 of Part II, of Schedule IV to these rules, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or, if not on the electoral roll, shall not be so registered for a like period; and if any person is reported by such Commissioners as guilty of any other corrupt practice as specified in the said Schedule, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be registered for a like period :

Provided that the Governor General in Council may direct that the name of any person to whom this sub-rule applies shall be registered on the electoral roll.

#### **Qualifications of electors.**

6. (1) The qualifications of an elector for a general constituency shall be such qualifications based on—

- (i) residence, or residence and community, and
- (ii) (a) the holding of land, or
- (b) assessment to or payment of income-tax, or
- (c) past or present membership of a Legislative body, or
- (d) past or present tenure of office on a local authority, or
- (e) past or present university distinction, or
- (f) the tenure of office in a co-operative banking society, or
- (g) the holding of a title conferred for literary merit,

as are specified in Schedule II to these rules in the case of that constituency.

(2) The qualifications of an elector for a special constituency shall be the qualifications specified in Schedule II to these rules in the case of that constituency.

#### **Electoral roll.**

7. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which and the time within which any person



whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll may prefer a claim or objection to the Revising Authority.

(2) The regulations for the time being in force in any province for the purpose of elections to the Legislative Council of that province in regard to the following matters, namely,—

(1) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll,

(2) the time at which the roll shall be prepared,

(3) the publication of the roll in the constituency to whom it relates,

(4) the mode in which and the time within which claims and objections may be preferred,

(5) the constitution and appointment of Revising Authorities to dispose of claims and objections,

(6) the manner in which notices of claims or objections shall be published,

(7) the place, date, and time at which and the manner in which claims or objections shall be heard,  
shall apply for the purpose of the holding of elections within that province to the Council of State :

Provided that the Governor General in Council may, by notification in the Gazette of India, direct that such modifications and adaptations as he may specify shall be made in the application of those regulations.

(3) The orders made by the Revising Authority shall be final and the electoral roll shall be amended in accordance therewith and shall, as so amended, be republished in the case of each province in such manner as may be prescribed by the regulations aforesaid for the republication of electoral rolls of constituencies of the Legislative Council.

(4) The electoral roll shall come into force from the date of such republication, and shall continue in force for a period of three years or for such less period as the Governor General in Council may by regulation prescribe, and after the expiration of such period a fresh roll shall be prepared in accordance with these rules.

(5) If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purposes of that election continue to operate as the electoral roll for the constituency.

**Right to vote.**

8. Every person registered on the electoral roll for the time being in force for any constituency shall, while so registered, be entitled to vote at an election of a member or members for that constituency: provided that no person shall vote in more than one general constituency.

**Nomination of candidates.**

9. (1) Any person may be nominated as a candidate for election in any constituency for which he is eligible for election under these rules.

(2) On or before the date on which a candidate is nominated, the candidate shall make in writing and sign a declaration appointing either himself or some other person who is not disqualified under these rules for the appointment to be his election agent, and no candidate shall be deemed to be duly nominated unless such declaration has been made.

(3) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

**Election.**

10. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature before such time as the Governor-General in Council may fix in this behalf exceeds that of the vacancies, a poll shall be taken.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies, all such candidates shall be declared to be elected, and the Governor-General shall, by a notification in the Gazette of India, call for fresh nominations for the remaining vacancies, and if any such are received shall call upon the constituencies concerned to elect members to fill these vacancies.

(4) Votes shall be given by ballot and in general constituencies in person. No votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected: provided that no elector shall give more than one vote to any one candidate except in the case of the Bombay (Non-Muhammadan) constituency, in which constituency an elector may accumulate all his votes on any one candidate or may distribute them among the candidates as he pleases.

(9) Votes shall be counted by the Returning Officer, and any candidate, or, in the absence of the candidate, a representative duly

authorised by him in writing, shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given, to be elected.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given, shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

(9) The Returning Officer shall without delay report the result of the election to the Secretary to the Government of India in the Legislative Department, and the name or names of the candidate or candidates elected shall be published in the Gazette of India.

#### Regulations regarding the conduct of election.

11. The regulations for the time being in force in any province for the purpose of elections to the Legislative Council of that province in regard to the following matters, namely,—

- (1) the form and manner in and the condition on which nominations may be made, and for the scrutiny of nominations.
  - (2) the appointment of a Returning Officer for each constituency and for his powers and duties,
  - (3) the division of general constituencies into polling areas and the appointment of polling stations for these areas,
  - (4) the appointment of officers to preside at polling stations, and the duties of such officers,
  - (5) the checking of voters by reference to the electoral roll,
  - (6) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability,
  - (7) the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors,
  - (8) the scrutiny of votes,
  - (9) the safe custody of ballot papers and other election papers, the period for which such papers shall be preserved, and the inspection and production of such papers, and
  - (10) the conduct of elections generally,
- shall apply for the purpose of the holding of elections within the province to the Council of State :

Provided that, the Governor-General in council may, by notification in the Gazette of India, direct that such modifications and adaptations as he may specify shall be made in the application of those regulations.

**Multiple elections.**

12. (1) If any person is elected by more than one constituency, he shall, by notice in writing signed by him and delivered to the Secretary to the Government of India in the Legislative Department within seven days from the date of the publication of the result of such election in the Gazette of India, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(2) When any such choice has been made, the Governor General shall call upon any constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-rule (1) of this rule, the elections of such person shall be void, and the Governor-General shall call upon the constituency or constituencies concerned to elect another person or persons.

**Disqualification for being an election agent.**

13. No person shall be appointed an election agent who is himself ineligible for election as being subject to the disqualification mentioned in sub-rule (3) of rule III.

**Return of election expenses,**

14. (1) Within one month or such longer period as the Governor General may allow after the date of the declaration of the result of the election, every candidate, either personally or through his election agent, shall cause to be lodged with the Returning Officer a return of his election expenses containing the particulars specified in Schedule III to those rules.

(2) Every such return shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interests for expenses incurred on account of or in respect of the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

(3) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in the said Schedule and shall be made on oath or affirmation before a Magistrate.

(4) The Governor General in Council shall cause to be prepared, in such manner and maintained for such time as he may direct,

a record showing the names of all candidates at every election under these rules and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

#### Accounts of Agents.

15. Every election agent shall keep regular books of account in which the particulars of all expenditure of the nature referred to in rule XIV shall be entered, whether such expenditure is incurred by the candidate or by the election agent or by any person under the direction of the candidate or the election agent.

#### General disqualifications for nomination.

16. (1) Save as expressly provided in these rules in regard to the nomination of a person elected in Berar, no person shall be nominated to the Council of State who—

- (a) is not a British subject ; or
- (b) is a female ; or
- (c) is already a member of any legislative body constituted under the Act ; or
- (d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court ; or
- (e) has been adjudged by a competent court to be of unsound mind ; or
- (f) is under 25 years of age ; or
- (g) is an undischarged insolvent ; or
- (h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part :

Provided that, if the ruler of a State in India or any subject of such a State is not disqualified for nomination to the Legislative Council of a province, such ruler or subject shall not by reason of not being a British subject be disqualified for nomination to the Council of State to represent that province :

Provided further, that the disqualification mentioned in clause (d) may be removed by an order of the Governor-General in Council in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for nomination for five years from the date of the expiration of the sentence.

(3) A person who has been convicted of any offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or has been reported by Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, shall not be eligible for nomination for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by such Commissioners, to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) A person, who having been a candidate or an election agent at an election has failed to lodge the return of election expenses prescribed in these rules or has lodged a return which is found either by Commissioners holding an inquiry or by a Magistrate in a judicial proceeding to be false in any material particular, shall not be eligible for nomination for five years from the date of the election :

Provided that, either of the disqualifications mentioned in sub-rules (3) and (4) of this rule may be removed by an order of the Governor General in Council in that behalf.

**Terms of office of nominated members.**

17. (1) A nominated non-official member shall hold office for the duration of the Council of State to which he is nominated.

(2) Official members shall hold office for the duration of the Council of State to which they are nominated or for such shorter period as the Governor General may, at the time of nomination, determine.

**Taking of oath.**

18. Every person who is elected or nominated to be a member of the Council of State shall, before taking his seat, make at a meeting of the Council of State an oath or affirmation of his allegiance to the Crown in the following form, namely;—

I, A. B. having been <sup>elected</sup> ~~nominated~~ a member of this Council do solemnly swear [or affirm] that I will be faithful and bear true allegiance to his Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

**Effect of subsequent disabilities or failure to take oath.**

19. If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clause (a), (d), (e), (g), and (h) of sub-rule (1) or in sub-rules (2), (3) and [4] of rule III or of rule XVI, as the case may be, or fails to make

the oath or affirmation prescribed by rule XVIII within such time as the Governor-General considers reasonable, the Governor General shall, by notification in the Gazette of India, declare his seat to be vacant.

#### **Vacancies.**

20. [1] When a vacancy occurs in the case of an elected member by reason of his election being declared void or his seat being declared vacant, or by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, the Governor General shall, by notification in the Gazette of India, call upon the constituency concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification.

[2] If a vacancy occurs in the case of a nominated member, the Governor General shall nominate to the vacancy a person having the necessary qualification under these rules.

#### **First Constitution of Council of State.**

21. [1] As soon as conveniently may be after these rules come into force, a Council of State shall be constituted in accordance with their provisions.

[1] For this purpose the Governor General shall, by notification in the Gazette of India, call upon the constituencies referred to in rule II to elect members in accordance with these rules within such time as may be prescribed by such notification, and shall make such nominations as may be necessary to complete the Council of State before the date fixed for its first meeting.

(3) If any difficulty arises as to the preparation or publication of the first electoral roll or the holding of the first elections after the commencement of these rules, the Governor General in Council may by order do any matter or thing which appears to him necessary for the proper preparation or publication of the roll or for the proper holding of the elections.

#### **Reconstitution of Council of State—General Elections.**

22. (1) On the expiration of the duration of a Council of State or on its dissolution, a general election shall be held in order that a new Council of State may be constituted.

(2) On such expiration or dissolution, the Governor General shall, by notification in the Gazette of India, call upon the constituencies referred to in rule II to elect members in accordance with these rules within such time after the date of expiration or dissolution as may be prescribed by such notification.

Provided that, if the Governor General thinks fit, such notification may be issued at any time not being more than three months

prior to the date on which the duration of the Council of State would exercise in the ordinary course of events.

(3) Before the date fixed for the first meeting of the Council of State, the Governor General shall make such nominations as may be necessary to complete the Council of State.

**Publication of result of General election.**

**23.** As soon as may be after the expiration of the time fixed for the election of members at any general election, the names of the members elected for the various constituencies at such election shall be notified in the Gazette of India.



# List of Constituencies for The Imperial Legislative Assembly

Madras-16

Madras, City, Non-Muhammadan, Urban	..	...	...	1
„ Districts, Non-Muhammadan Rural	..	...	...	1
Ganjam cum Vizagapatam District	...	...	...	1
Godavari cum Kistna	..	..	...	1
Guntur cum N. Nellore	...	...	...	1
Chittoor cum Ceded Dists (Anantpur, Bellary, Cuddapah, Kurnool)	...	...	...	1
Salem, Coimbatore cum North Arcot	...	...	...	1
Chingleput cum South Arcot	...	...	...	1
Tanjore cum Trichinopoly	..	...	...	1
Madura, Ramnad cum Tinnevely	...	...	...	1
Nilgiris and West Coast [Malabar, Anjengo, S. Canara]	...	...	...	1
Muhammadan Constituencies				
North Madras [Ganjam, Vizagapatam, Godavari, Kistna, Guntur Nellore, Anantpur, Bellary, Cuddapah, Kurnool and Chittoor]	...	...	...	1
South Madras [Chingleput, Madras, Arcot, N. & S., Coimbatore Tanjore, Trichinopoly, Madura, Ramnad, Tinnevely]	...	...	...	1
Nilgiris and W. Coast [Malabar, Anjengo, S. Canara]	...	...	...	1
Europeans in Presidency	...	...	...	1
Landholders in Presidency	...	...	...	1
Indian Commerce in Presidency	...	...	...	1

Bombay-1~~1~~ 12

Bombay—City Non-Muhammadian Urban	...	...	...	2
" " Muhammadan, Urban	...	...	...	1
Sind Non-Muhammadian	...	...	...	1
Muhammadian	...	...	...	1
Non-Muhammadian Rural				
Northern Division	...	...	...	2
Southern Division	...	...	...	1
Central "	...	...	...	2
Europeans in Presidency	...	...	...	1
Indian Merchants' Chamber	...	...	...	1

**Bengal—15**

Calcutta, Non-Muhammadan, Urban	...	...	...	1
" " " " " "	"	"	suburbs	1
[Hoogly, Howrah, 24 Pargana Dist Municipal.]	...	...	...	1
" " " " " "	"	"	Rural, Presidency Division	1
Non Muhammadan—Rural	...	...	...	1
Burdwan Division, excluding Hoogly and Howrah Dist.	...	...	...	1
Dacca Division	...	...	...	1
Chittagong—Raishahi Division	...	...	...	1

# LIST OF CONSTITUENCIES

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Muhammadian—Urban—					
Calcutta and suburbs [Hoogly, Howrah, 24 Parganas District] ...	1				
Muhammadian Rural—					
Burdwan and Calcutta Presidency Division ...	1				
Dacca Division ...	1				
Chittagong Division ...	1				
Rajshahi Division ...	1				
European—Bengal Presidency ...	2				
Landholders—Bengal " ...	1				
Indian Chambers of Commerce ...	1				

## United Provinces—16

Non-Muhammadian—Urban—					
Cities of U. P. [Agra, Meerut, Cawnpore, Benares, Allahabad, Bareilly, Lucknow] ...	1				
Non-Muhammadian—Rural—					
Meerut Division [excluding Municipality and Cantonment] ...	1				
Agra " " ...	1				
Rohilkhand and Kumaon Division ...	1				
Allahabad—Jhansi Division ...	1				
Benares—Gorakhpur Division ...	1				
Lucknow Division ...	1				
Fyzabad Division ...	1				
Muhammadian—Urban—					
Cities of U. P. [Agra etc. as above] ...	1				
Muhammadian Rural—					
Meerut Division—[excluding Municipal and Cantonment.] ...	1				
Agra " " " " ...	1				
Rohilkhand and Kumaon Division " " ...	1				
Lucknow and Fyzabad " " ...	1				
U. P. Southern Division [Allahabad, Benares, Gorakhpur] ...	1				
European—U. P. ...	1				
Landholders—U. P. ...	1				

## Punjab—12

Non-Muhammadian—					
Ambala Division ...	1				
Jullundur Division ...	1				
West Punjab [Lahore, Rawalpindi, Multan] Division ...	1				
Muhammadian—					
East Punjab [Ambala, Kangra, Hoshiarpur, Jullundur, Ludhiana] ...	1				
East Central Punjab [Ferozepur, Lahore, Amritsar and Gurdaspur] ...	1				
West Central Punjab [Sialkot, Gujranwala, Sheikhupura and Lyallpur] ...	1				
North Punjab [Gujrat, Jhelum and Rawalpindi] ...	1				
North-West Punjab [Attock, Mianwali, Shahpur and Jhang] ...	1				
South-West Punjab [Multan, Montgomery, Muzaffargarh and Dera Ghazi Khan] ...	1				
Sikh—					
East Punjab [Ambala and Jullundur Division] ...	1				
West Punjab [Lahore, Rawalpindi and Multan] ...	1				
Punjab Landholders [The Province of the Punjab]. ...	1				

## Bihar and Orissa—12

## Non-Muhammadan—

Tirhut Division	...	...	...	...	2
Orissa Division	...	...	...	...	2
Patna cum Shahabad	...	...	...	...	1
Gaya cum Monghyr	...	...	...	...	1
Bhagalpur, Purnea and the Santhal parganas	...	...	...	...	1
Chota Nagpur Division	...	...	...	...	1

## Muhammadan—

Patna and Chota Nagpur cum Orissa	...	...	...	...	1
Bhagalpur Division	...	...	...	...	1
Tirhut Division	...	...	...	...	1
Bihar and Orissa Landholders	...	...	...	...	1

## Central Provinces—5

## Non-Muhammadan—

Nagpur Division	...	...	...	...	1
Central Provinces Hindi Division [The Nerbada, Jubbulpur and Chhatisgarh Divisions]	...	...	...	...	2
Mahammadan-Central Provinces	...	...	...	...	1
Central Provinces Landholders	...	...	...	...	1

## Assam—4

## Non-Muhammadan—

Assam Valley	...	...	...	...	1
Surma Valley cum Shillong	...	...	...	...	1
Muhammadan—					
Assam Muhammadan	...	...	...	...	1
Assam European	...	...	...	...	1

## Burma—4

Burma Non-European	...	...	...	...	1
Burma European	...	...	...	...	1

## II. List of Constituencies entitled to representation in rotation.

Bombay	Sind	Muhammadan Rural	}	1
	Bombay Northern Division	do		
Ditto	Bombay Central Division	do	}	1
	Bombay Southern Division	do		
Ditto	Sind Jagirdar & Zamindars	Landholders	}	1
	Gujrat & Deccan Sardars & Inamdars	do		
Ditto	The Bom. Millowners' Association	Indian Commerce	}	1
	The Ahmedabad "	"		
	Bengal Chambers of Commerce	"		
Bengal	Marawari Association	"	}	1
	Bengal Mahajan Sabha	"		

III.—In a case where two constituencies are bracketed together as entitled to elect one member, the constituency first mentioned shall elect to the first Legislative Assembly, at the general election and at all bye-elections so long as the first Legislative Assembly continues, and the constituency second mentioned shall elect at the general election to the next Legislative Assembly and at bye-elections in like manner, and thereafter the constituencies shall elect in like manner in rotation to succeeding Legislative Assemblies.

IV.—In the case where three constituencies are bracketed together as entitled to elect one member, the constituency first mentioned shall elect to the first Legislative Assembly at the general election and at all bye-elections so long as the first Legislative Assembly continues, and the second mentioned constituency shall elect at the general election to the next Legislative Assembly and at bye-elections in like manner, and the third mentioned constituency shall elect at the general election to the third Legislative Assembly and at bye-elections in like manner, and thereafter the constituencies shall elect in like manner in rotation to succeeding Legislative Assemblies.

## List of Constituencies for The Council of State

Province.	Name of Constituency.	No. of Members.
Madras	Madras Non-Muhammadan.	4
Ditto	Madras Muhammadan.	1
Bombay	Bombay Non-Muhammadan.	3
Ditto	Bombay Presidency Muhammadan.	1
Ditto	Sind Muhammadan.	1
Ditto	Bombay Chamber of Commerce.	1
Bengal	East Bengal Non-Muhammadan.	1
Ditto	West Bengal do	2
Ditto	East Bengal Muhammadan	1
Ditto	West Bengal do	1
Ditto	Bengal Chamber of Commerce.	1
United Provinces	United Provinces	
	Central Non-Muhammadan	1
do	United Provinces Northern Non-Muhammadan	1
do	United Provinces Southern Non-Muhammadan	1
do	United Provinces West Muhammadan	1
do	United Provinces East Muhammadan	1

Province.	Name of Constituency.	No. of Members.
Punjab	Punjab (Non-Muhammadan)	1
Do	Punjab Sikh	1
Behar and Orissa	Behar and Orissa Non-Muhammadan.	2*
Do.	Muhammadan.	1
Central Provinces	Central Provinces.	1
Burma	Burma.	1
Do	Burma Chamber of Commerce.	1
Punjab.	East Punjab Muhammadan	} ... 2 ✓
Do.	West do. do.	
Bihar & Orissa	Bihar & Orissa Non-Muhammadan.	} ... 1
Assam	Assam Non-Muhammadan	
Ditto.	do Muhammadan	

III. In the case where two constituencies are bracketed together as entitled to elect one member, the constituency first mentioned shall elect to the first Council of State at the general election and at all bye-elections so long as the first Council of State continues, and the second-mentioned constituency shall elect at the general election to the next Council of State and at all bye-elections in like manner, and thereafter the constituencies shall elect in like manner in rotation to succeeding Councils of State.

IV. In the case where three constituencies are bracketed together as entitled to elect two members, the two first-mentioned constituencies shall each elect a member to the first Council of State at the general election and the constituency affected shall elect at any bye-election so long as the first Council of State continues, and for the purposes of the general election to the second Council of State and bye-elections occurring during the continuance of that Council the two first-mentioned constituencies shall be deemed to be one constituency and the members shall be elected, one by those constituencies combined and the other by the third-mentioned constituency, or, in the case of a bye-election, by those constituencies or that constituency, as the case may be, and thereafter the constituencies shall elect in like manner in rotation to succeeding Councils of State.

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\* NOTE —The Bihar and Orissa (non-Muhammadan) constituency is entitled to elect a third member to the second, fourth and succeeding alternate Councils of State.

# Devolution Rules

*In exercise of the powers conferred by section 45 A and section 129 A of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—*

## **Short title and Definitions.**

1. These rules may be called the Devolution Rules.
2. In these rules, unless there is anything repugnant in the subject or context—
  - (a) “all-India Revenues” means such portion of the revenues of India as is not allocated to local Governments under these rules ;
  - (b) “Schedule” means a Schedule to these rules ;
  - (c) “the Act” means the Government of India Act.

## **Part I.—Classification of Subjects.**

3. (1) For the purpose of distinguishing the functions of local Governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature, subjects shall be classified in relation to the functions of Government as central and provincial subjects in accordance with the lists set out in Schedule I.

(2) Any matter which is included in the list of provincial subjects set out in Part II of Schedule I shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part.

## **Settlement of doubts.**

4. Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject the Governor-General in Council shall decide whether the matter does or does not so relate, and his decision shall be final.

## **Duty of local Government to supply information.**

5. The local Government of a province shall furnish to the Governor-General in Council from time to time such returns and information on matters relating to the administration of provincial subjects as the Governor-General in Council may require and in such form as he may direct.

## **Transfer of subjects and revocation or suspension of transfer.**

6. The provincial subjects specified in the first column of Schedule II shall, in the provinces shown against each subject in the

second column of the said Schedule, be transferred subjects provided that the Governor General in Council may, by notification in the Gazette of India, with the previous sanction of the Secretary of State in Council, revoke or suspend for such period as he may consider necessary the transfer of any provincial subject in any province, and upon such revocation or during such suspension the subject shall not be a transferred subject.

7. If any doubt arises as to whether any matter relates to a reserved or to a transferred subject, the Governor shall decide the question, and his decision shall be final.

8. Where an Act of the Legislative Council of a Governor's province confers on local authorities powers of the management of matters relating to reserved subjects, those matters shall, to the extent of the powers conferred by such legislation, be deemed in that province to form part of the transferred subject of local self-government.

9. (1) When a matter appears to the Governor to affect substantially the administration both of a reserved and of a transferred subject, and there is disagreement between the Executive Council and the minister concerned as to the action to be taken, it shall be the duty of the Governor, after due consideration of the advice tendered to him, to direct in which department the decision as to such action shall be given : provided that, in so far as circumstances admit, important matters on which there is such a difference of opinion shall, before the giving of such direction, be considered by the Governor with his Executive Council and his ministers together.

(2) In giving such a direction as is referred to in sub-rule (1), the Governor may, if he thinks fit, indicate the nature of the action which should in his judgment be taken, but the decision shall thereafter be arrived at by the Governor in Council or by the Governor and minister according as the department to which it has been committed is a department dealing with reserved or a department dealing with transferred subjects.

10. The authority vested in the local Government over officers of the public services employed in a province shall be exercised in the case of officers serving in a department dealing with reserved subjects by the Governor in Council and in the case of officers serving in a department dealing with transferred subjects by the Governor acting with the minister in charge of the department : provided that—

(a) no order affecting emoluments or pensions, no order of formal censure, and no order on a memorial shall be passed to the disadvantage of an officer of an All-India or provincial service with-

(b) no order for the posting of an officer of an all-India service shall be made without the personal concurrence of the Governor.

11. An officer shall be deemed to be serving in that department which controls the budget-head to which his pay is debited. If he performs duties both in a department dealing with reserved and in a department dealing with transferred subjects, the Governor shall decide to which budget-head his pay shall be debited.

#### Devolution.

12. Subject to the provisions of these rules, provincial subjects shall be administered by the local Government. But, save in the case of transferred subjects, nothing in these rules shall derogate from the power of superintendence, direction and control conferred on the Governor General in Council by the Act.

#### Part II.—Financial arrangements.—Allocation of revenue.

13. The following sources of revenue shall be allocated to local Governments as sources of provincial revenue, namely :—

(a) balances standing at the credit of the province at the time when the Act comes into force ;

(b) receipts accruing in respect of provincial subjects ;

(c) General stamps ;

(d) recoveries of loans and advances given by the local Government and of interest paid on such loans ;

(e) Payments made to the local Government by the Governor General in Council or by other local Governments, either for services rendered or otherwise ;

(f) the proceeds of any taxes which may be lawfully imposed for provincial purposes ;

(g) the proceeds of any loans which may be lawfully raised for provincial purposes ; and

(h) any other sources which the Governor General in Council may by order declare to be sources of provincial revenue.

#### Payment of Government revenues into the public account.

14. All moneys derived from sources of provincial revenue shall be paid into the public account, of which the Governor General in Council is custodian, and credited to the Government of the province ; and no moneys so credited shall be withdrawn from the public account save in accordance with the provisions of a law passed by the Indian Legislature.

#### Provincial Contributions.

15. In the financial year 1921-22 contributions shall be paid to the Governor General in Council by the local Governments mentioned below according to the following scale :—



Name of Province.					Contribution (In lakhs of rupees.)
Madras	...	...	...	...	348
Bombay	...	...	...	...	56
Bengal	...	...	...	...	43
United Provinces	...	...	...	...	240
Punjab	...	...	...	...	175
Burma	...	...	...	...	64
Central Provinces and Berar	...	...	...	...	22
Assam	...	...	...	...	15

16. From the Financial year 1922-23 onwards, a total contribution of 983 lakhs, or such smaller sum as may be determined by the Governor General in Council, shall be paid to the Governor General in Council by the local Governments mentioned below. The percentage of this total amount to be paid in each year by each local Government shall be according to the following scale :—

Name of Province.	1922- 23.	1923- 24.	1924- 25.	1925- 26.	1926- 27.	1927-28 and thereafter.	
Madras ...	...	32.5	29.5	26.5	23	20	17
Bombay ...	...	7	8	9.5	10.5	12	13
Bengal ...	...	8.5	10.5	12.5	15	17	19
United Province ...	...	23.5	22.5	21	20	19	18
Punjab ...	...	16.5	15	13.5	12	10.5	9
Burma ...	...	6.5	6.5	6.5	6.5	6.5	6.5
Bihar and Orissa ...	...	1.5	3	5	7	8.5	10
Central Provinces and Berar ...	...	2.5	3	3.5	4	4.5	5
Assam ...	...	1.5	2	2	2	2	2.5

17. In cases of emergency the local Government of any province may be required by the Governor General in Council, with the sanction of, and subject to conditions approved by, the Secretary of State, to pay to the Governor General in Council a contribution for any financial year in excess of the amount required by the preceding rules in the case of that year.

18. The contributions fixed under the preceding rules shall be a first charge on the allocated revenues and moneys of the local Governments concerned, and shall be paid in such instalments, in such manner, and on such dates, as the Governor General in Council may prescribe.

19. At any time when he considers this course to be essential in order to preserve the financial stability of India, the Governor General in Council shall have power to require a local Government so to regulate its programme of expenditure as not to reduce the balance at its credit in the public account on a specified date below a stated figure. Subject to this power, local Governments shall be

at liberty to draw on their balances, provided that notice of the amount which they propose to draw during the ensuing financial year is given to the Governor General in Council before such date in each year as the Governor General in Council may by order fix.

20. Whenever the Governor General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India and shall be calculated at the average rate at which the Governor General in Council has borrowed money in the open market during the year by the issue of treasury bills.

21. Any moneys which, on the 1st day of April 1921 are owed to the Governor General in Council on account of advances made from the provincial loan account of any province, shall be treated as an advance to the local Government from the revenues of India, and shall carry interest at a rate calculated on the average rate carried by the total amount owed to the Governor General in Council on this account on the 31st March 1921. The interest shall be payable upon such dates as the Governor General in Council may fix. In addition, the local Government shall pay to the Governor General in Council in each year an instalment in repayment of the principal amount of the advance, and this instalment shall be so fixed that the total advance shall, except where for special reasons the Governor-General in Council may otherwise direct, be repaid before the expiry of twelve years. It shall be open to any local Government to repay in any year an amount in excess to the fixed instalment.

22. (1) The capital sums spent by the Governor General in Council upon the construction in the various provinces of productive and protective irrigation works and such other works financed from loan funds as may from time to time be handed over to the management of local Governments shall be treated as advances made to the local Governments from the revenues of India. Such advances shall carry interest at the following rates, namely:—

(a) in the case of outlay up to the end of the financial year 1916-17, at the rate of 3·3252 *per centum* ;

(b) in the case of outlay incurred after the financial year 1916-17, at the average rate of interest paid by the Governor General in Council on loans raised in the open market since the end of that year.

(2) The interest shall be payable upon such dates as the Governor General in Council may fix.

23. The Governor General in Council may at any time make to a local Government an advance from the revenues of India on such terms as to interest and repayment as he may think fit.

24. The payment of interest on loans and advances made under the three preceding rules and the repayment of the principal of an advance under rule 21, shall be a charge on the annual allocated revenues of the local Government, and shall have priority over all other charges, save only contributions payable to the Governor General in Council.

25. (1) Subject to the rules contained in Schedule III, the local Government shall have full power to sanction expenditure on provincial subjects—

(a) in the case of grants voted by the Legislative Council to the full extent of such grant, and

(b) In the case of the heads of expenditure enumerated in section 72D (3) of the Act, to any extent.

(2) Sanctions once given under clause (a) of sub-rule (1) shall remain valid for the specified period for which they are given, subject to the voting of grants in each year.

#### Delegation of powers of sanction.

26. Any powers conferred by rule 25 upon the Governor in Council or the Governor acting with ministers may, after previous consultation with the Finance Department hereinafter referred to, be delegated, with or without conditions, to any officer subordinate to the local Government. Such officer may not in his turn delegate such powers to any officer subordinate to him.

#### Famine Insurance Fund.

27. Each local Government shall establish and maintain out of provincial revenues a famine insurance fund in accordance with the provision of Schedule IV, and such fund shall be controlled and administered as required by those provisions.

#### Taxation and borrowing.

28. All proposals for raising taxation or for the borrowing of money on the revenues of a province shall be considered by the Governor with his Executive Council and ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and minister or ministers concerned, according as the proposal relates to a reserved or to a transferred subject.

#### Allocation of revenues for the administration of transferred subjects.

29. Expenditure for the purpose of the administration of transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each province, and the framing

of proposals for expenditure in regard to transferred and reserved subjects will be a matter for agreement between that part of the government which is responsible for the administration of transferred subjects and that part of the government which is responsible for the administration of reserved subjects.

**Procedure in event of failure to agree.**

30. If the Governor is at any time satisfied that there is no hope of an agreement being arrived at within a reasonable time as to the framing of proposals in regard to expenditure for reserved and transferred subjects respectively, he may by order in writing allocate the revenue and balances of the province between reserved and transferred subjects by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subject.

**Period of order of allocation.**

31. Every such order shall specify the period for which the allocation will remain in force. Such period shall be either the period of the office of the then existing Legislative Council or such longer period terminating at a date not later than one year after the expiration thereof as the Governor may determine. The Governor may, if he thinks fit, before making an order of allocation, refer the question of the allocation of the revenues and balances of the province for the report of such authority as the Governor General may appoint in this behalf, and the Governor, if he so refers the matter, shall make his order in accordance with the terms of the report.

**Condition of order of allocation.**

32. Every order of allocation made under these rules shall provide that, if any increase of revenue accrues during the period of the order on account of the imposition of fresh taxation, that increase unless the legislature otherwise directs, shall be allocated in aid of that part of the Government by which the taxation is initiated.

**Preparation of budget in default of agreement or order of allocation.**

33. If at the time of the preparation of any budget no agreement or allocation such as is contemplated by these rules has been arrived at, the budget shall be prepared on the basis of the aggregate grants respectively provided for the reserved and transferred subjects in the budget of the year about to expire.

**Part III.—Finance Department.**

34. (1) There shall be in each Governor's province a Finance Department, which shall be controlled by a member of the Executive Council.

(2) Immediately subordinate to the member there shall be a financial secretary, with whom shall be associated, if the ministers so desire, a joint secretary appointed by the Governor after consultation with the ministers.

(3) The joint secretary shall be specially charged with the duty of examining and dealing with financial questions arising in relation to transferred subjects and with proposals for taxation or borrowing put forward by any minister.

#### Function of Finance Department.

**35.** The Finance Department shall perform the following functions, namely :—

(a) it shall be in charge of the account relating to loans granted by the local Government, and shall advise on the financial aspect of all transactions relating to such loans ;

(b) it shall be responsible for the safety and proper employment of the famine insurance fund ;

(c) it shall examine and report on all proposals for the increase or reduction of taxation ;

(d) it shall examine and report on all proposals for borrowing by the local Government : shall take all steps necessary for the purpose of raising such loans as have been duly authorised : and shall be in charge of all matters relating to the service of loans :

(e) it shall be responsible for seeing that proper financial rules are framed for the guidance of other departments and that suitable accounts are maintained by other departments and establishments subordinate to them ;

(f) it shall prepare an estimate of the total receipts and disbursements of the province in each year and shall be responsible during the year for watching the state of the local Government's balances ;

(g) in connection with the budget and with supplementary estimates—

(i) it shall prepare the statement of estimated revenue and expenditure which is laid before the Legislative Council in each year and any supplementary estimates or demands for excess grants which may be submitted to the vote of the Council ;

(ii) for the purposes of such preparation, it shall obtain from the departments concerned material on which to base its estimates, and it shall be responsible for the correctness of the estimates framed on the material so supplied ;

(iii) it shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates,

and shall decline to provide in the estimates for any scheme which has not been so examined ;

(h) on receipt of a report from an audit officer to the effect that expenditure for which there is no sufficient sanction is being incurred, it shall require steps to be taken to obtain sanction or that the expenditure shall immediately cease ;

(i) it shall lay the audit and appropriation reports before the committee on public accounts, and shall bring to the notice of the committee all expenditure which has not been duly authorised and any financial irregularities ;

(j) it shall advise departments responsible for the collection of revenue regarding the progress of collection and the methods of collection employed.

**Powers of Finance Department.**

36. (1) After grants have been voted by the Legislative Council, the Finance Department shall have power to sanction—

(i) any reappropriation within a grant from one major or minor head to another,

(ii) any reappropriation between heads subordinate to a minor head which involves the undertaking of a recurring liability, and

(iii) any delegation by a member or minister in charge of a department to any officer or class of officers of power to make reappropriation between heads subordinate to a minor head, and the conditions of such delegation,

and no such reappropriation or delegation shall be made without such sanction.

(2) Copies of orders sanctioning any reappropriation which does not require the sanction of the Finance Department shall be communicated to that department as soon as such orders are passed.

37. No expenditure on any of the heads detailed in section 72D. (3) of the Act, which is in excess of the estimate for that head shown in the budget of the year, shall be incurred without previous consultation with the Finance Department.

38. No office may be added to, or withdrawn from, the public service in the province, and the emoluments of no post may be varied, except after consultation with the Finance Department; and, when it is proposed to add a permanent or temporary post to the public service, the Finance Department shall decide to what cadre the proposed post will form an addition.

39. No duty allowance, local allowance or travelling allowance and no personal pay shall be sanctioned for any post or class of posts without previous consultation with the Finance Department.

40. No grant of land or assignment of land revenue, except when the grant is made under the ordinary revenue rules of the pro-

vince, shall be given without previous consultation with the Finance Department, and no concession, grant or lease of mineral or forest rights, of right to water power or of right-of-way or other easement, and no privilege in respect of such rights shall be given without such previous consultation.

#### **Abandonment of revenue, ect.**

41. No proposal involving an abandonment of revenue for which credit has been taken in the budget, or involving expenditure for which no provision has been made in the budget, shall be submitted for the consideration of the local Government or the Legislative Council, nor shall any orders giving effect to such proposals issue, without a previous reference to the Finance Department.

#### **Disposal of reports by Finance Department.**

42. Every report made by the Finance Department on any matter on which it is required to advise or report under these rules shall be forwarded to the department concerned and shall, if the Finance Department so require, be submitted by the department concerned to the Governor. The Governor may, if he thinks fit, direct that any such report shall be laid before the committee on public accounts.

#### **Presumption of assent of Finance Department.**

43. Wherever previous consultation with the Finance Department is required by these rules, it shall be open to that Department to prescribe, by general or special order, cases in which its assent may be presumed to have been given.

#### **Agency Employment of Local Governments.**

44. The Governor General in Council may employ the agency of the Governor in Council of any province in the administration of central subjects in so far as such agency may be found convenient.

#### **Cost of agency establishment.**

45. The cost of an establishment exclusively employed on the business of agency shall be a charge against all-India revenues.

#### **Distribution of cost of joint establishment.**

46. If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment may be distributed in such manner as the Governor General in Council and the Governor in Council of the province concerned may agree.

#### **Part IV.—Limitation of control by Governor General in Council over transferred subjects.**

47. The powers of superintendence, direction and control over the local Government vested in the Governor General in Council

under the Act shall, in relation to transferred subjects, be exercised only for the following purposes, namely :—

- (1) to safeguard the administration of central subjects ; and
- (2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement.

## SCHEDULE I.

SEE RULE 3 ABOVE

### PART I.—CENTRAL SUBJECTS.

1. (a) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service or with any other Force raised in India other than military and armed police wholly maintained by local Governments.

(b) Naval and military works and cantonments.

2. External relations, including naturalisation and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

5. Communications to the extent described under the following heads, namely :—

(a) Railways and extra-municipal tramways, in so far as they are not classified as provincial subjects under entry 6 (d) of Part II of this Schedule;

(b) aircraft and all matters connected therewith;

(c) inland waterways, to an extent to be declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature.

6. Shipping and Navigation, including shipping and navigation on inland waterways in so far as declared to be a central subject in accordance with entry 5. (c).

7. Light-houses (including their approaches), beacons, lightships and buoys.

8. Port quarantine, and marine hospitals.

9. Ports declared to be major ports by rule made by the Governor General in Council or by or under legislation by the Indian legislature.

10. Ports, telegraphs and telephones, including wireless installations.

11. Customs, cotton excise duties, income-tax, salt, and other sources of all-India revenues.

12. Currency and coinage.

13. Public debt of India.



14. Savings Banks.
15. Department of the Comptroller and Auditor General.
16. Civil law, including laws regarding status, property, civil rights and liabilities and civil procedure.
17. Commerce, including banking and insurance.
18. Trading companies and other associations.
19. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature to be essential in the public interest.
20. Development of industries, in cases where such development by a central authority is declared by order of the Governor General in Council expedient in the public interest.
21. Control of cultivation and manufacture of opium, and sale of opium for export.
22. Stores and Stationery.
23. Control of petroleum and explosives.
24. Geological survey.
25. Control of mineral development in so far as such control is reserved to the Governor General in Council under rule made or sanctioned by the Secretary of State, and regulation of mines.
26. Botanical survey.
27. Inventions and designs.
28. Copyright.
29. Emigration from, and immigration into, British India and inter-provincial migration.
30. Criminal Law, including criminal procedure.
31. Central police organisation.
32. Control of arms and ammunition.
33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.
34. Ecclesiastical administration, including European cemeteries.
35. Survey of India.
36. Archaeology.
37. Zoological survey.
38. Meteorology.
39. Census and Statistics.
40. All-India Services.
41. Legislation in regard to any provincial subject, in so far as such subject is in Part II of this Schedule stated to be subject to legislation by the Indian legislature, and any powers relating

to such subject reserved by legislation to the Governor General in Council.

42. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.

43. Regulation of ceremonial titles, orders, precedence and civil uniform.

44. Immoveable property acquired by, or maintained at, the cost of the Governor General in Council.

45. All matters expressly excepted by the provisions of Part II of this Schedule from inclusion among provincial subjects.

46. All other matters not included among provincial subjects under Part II of this Schedule.

## PART II.—PROVINCIAL SUBJECTS.

1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in a province for the purpose of local self-government, exclusive of matters arising under the Cantonments Act 1910 ; subject to legislation by the Indian legislature as regards—

(a) the powers of such authorities to borrow otherwise than from a provincial government, and

(b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.

2. Medical administration, including hospitals, dispensaries and asylums and provision for medical education.

3. Public health and sanitation and vital statistics ; subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.

4. Pilgrimages within British India.

5. Education : provided that—

(a) the following subjects shall be excluded, namely :—

(i) the Benares Hindu University, and such other Universities constituted after the commencement of these rules, as may be declared by the Governor General in Council to be central subjects, and

(ii) Chiefs' Colleges and any institution maintained by the Governor General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants ; and

(b) the following subjects shall be subject to legislation by the Indian legislature, namely :—

(i) the control of the establishments, and the regulation of

- the constitutions and functions, of Universities constituted after the commencement of these rules, and
- (ii) the definition of the jurisdiction of any University outside the province in which it is situated, and
- (iii) for a period of five years from the date of the commencement of these rules, the Calcutta University and the control and organisation of secondary education in the presidency of Bengal.

6. Public works included under the following heads, namely :—

- (a) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province ; and care of historical monuments, with the exception of ancient monument as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act: provided that the Governor General in Council may, by notification in the Gazette of India, remove any such monument from the operation of this exception ;
- (b) roads, bridges, ferries, tunnels, ropeways and causeways and other means of communication ;—subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor General in Council to be of military importance, and as regards incidence, of special expenditure connected therewith, as the Governor General in Council may prescribe ;
- (c) tramways within municipal areas ; and
- (d) light and feeder railways in so far as provision for their construction and management is made by provincial legislation ;—subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.

7. Water supplies, irrigation and canals, drainage and embankments, water storage and water power ;—subject to legislation by the Indian legislature with regard to matters of inter-provincial concern or affecting the relations of a Province with any other territory. .

8. Land Revenue administration, as described under the following heads, namely :—

- (a) assessment and collection of land revenue ;
- (b) maintenance of land records, survey for revenue purposes, records of rights ;

- (c) laws regarding land tenures, relations of landlords and tenants, collection of rents ;
- (d) Courts of Wards, incumbered and attached estates ;
- (e) land improvement and agricultural loans ;
- (f) colonisation and disposal of Crown lands and alienation of land revenue ; and
- (g) management of Government estates.

9. Famine relief.

10. Agriculture, including research institutes, experimental and demonstration farms, introduction of Improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases ;—subject to legislation by the Indian legislature in respect to destructive insects and pests, and plant diseases, to such extent as may be declared by any Act of the Indian legislature.

11. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases ;—subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.

12. Fisheries.

13. Co-operative Societies.

14. Forests, including preservation of game therein ;—subject to legislation by the Indian legislature as regards disforestation of reserved forests.

15. Land acquisition : subject to legislation by the Indian legislature.

16. Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.

17. Administration of justice, including constitution, powers, maintenance and organisation of Courts of civil and criminal jurisdiction within the province ;—subject to legislation by the Indian legislature as regards High Courts, Chief Courts, and Courts of Judicial Commissioners, and any Courts of criminal jurisdiction.

18. Provincial law reports.

19. Administrators General and Official Trustees ;—subject to legislation by the Indian legislature.

20. Non-judicial stamps ;—subject to legislation by the Indian legislature, and judicial stamps, subject to legislation by the Indian legislature as regards amount of Court-fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

21. Registration of deeds and documents ;—subject to legislation by the Indian legislature.

22. Registration of births, deaths and marriages ; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.

23. Religious and charitable endowments.

24. Development of mineral resources which are Government property ;—subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

25. Development of Industries, including industrial research and technical education.

26. Industrial matters included under the following heads, namely :—

(a) factories ;

(b) settlement of labour disputes ;

(c) electricity ;

(d) boilers ;

(e) gas ;

(f) smoke nuisances ; and

(g) welfare of labour including provident funds, industrial insurance (general, health and accident) and housing ;—subject as to heads (a), (b), (c), (d) and (g) to legislation by the Indian legislature.

27. Adulteration of foodstuffs and other articles ; subject to legislation by the Indian legislature as regards import and export trade.

28. Weights and measures ; subject to legislation by the Indian legislature as regards standards.

29. Ports, except such ports as may be declared by rule made by the Governor General in Council or by or under Indian legislation to be major ports.

30. Inland waterways including shipping and navigation thereon so far as not declared by the Governor General in Council to be central subjects, but subject as regards inland steam-vessels to legislation by the Indian legislature.

31. Police, including railway police ; subject in the case of railway police to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor General in Council may determine.

32. The following miscellaneous matters, namely :—

(a) regulation of betting and gambling ;

(b) prevention of cruelty to animals ;

(c) protection of wild birds and animals ;

(d) control of poisons ;—subject to legislation by the Indian legislature ;

(e) control of motor vehicles,—subject to legislation by the Indian legislature as regards licences valid throughout British India ; and

(f) control of dramatic performances and cinematographs, subject to legislation by the Indian legislature in regard to sanction of films for exhibition.

33. Control of newspapers, books and printing presses ; subject to legislation by the Indian legislature.

34. Coroners.

35. Excluded Areas.

36. Criminal tribes ; subject to legislation by the Indian legislature.

37. European vagrancy ; subject to legislation by the Indian legislature.

38. Prisons, prisoners (except State prisoners) and reformatories ; subject to legislation by the Indian legislature.

39. Pounds and prevention of cattle trespass.

40. Treasure trove.

41. Libraries (except the Imperial Library) and museums (except the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta) and Zoological Gardens.

42. Provincial Government Presses.

43. Elections for Indian and provincial legislature, subject to rules framed under sections 64 (1) and 72A (4) of the Act.

44. Regulation of medical and other professional qualifications and standards ; subject to legislation by the Indian legislature.

45. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

46. Control, as defined by rule 10, of members of all-India and provincial services serving within the province, and control, subject to legislation by the Indian legislature, of other public services within the province.

47. Sources of provincial revenue, not included under previous heads, weather—

(a) taxes included in the Schedules to the Scheduled Taxes Rules, or

(b) taxes, not included in those Schedules, which are imposed by or under provincial legislation which has received the previous sanction of the Governor General.

48. Borrowing of money on the sole credit of the province, subject to the provisions of the Local Government (Borrowing) Rules.

49. Imposition by legislation of punishments by fine, penalty or imprisonment, for enforcing any law of the province relating to any provincial subject ; subject to legislation by the Indian legis-

lature in the case of any subject in respect of which such a limitation is imposed under these rules.

50. Any matter which though falling within a central subject, is declared by the Governor General in Council to be of a merely local or private nature within the province.

## SCHEDULE II.

SEE RULE 6 ABOVE.

### LIST OF PROVINCIAL SUBJECTS FOR TRANSFER.

Column I.	Column II.
1. Local self-Government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-Government, exclusive of matters arising under the cantonments Act, 1910; subject to legislation by the Indian legislature as regards (a) the powers of such authorities to borrow otherwise than from a provincial Government, and (b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.	All Governors' Provinces.
2. Medical administration, including hospitals, dispensaries and asylums, and provision for medical education.	Ditto.
3. Public health and sanitation and vital statistics; subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.	Ditto.
4. Pilgrimages within British India ... ..	Ditto.
5. Education, other than European and Anglo-Indian education; provided that—	All Governors' Provinces.
(a) the following subjects shall be excluded namely :—	
(i) the Benares Hindu University and such other Universities, constituted after the commencement of these rules, as may be declared by the Governor General in Council to be central subjects, and	
(ii) Chiefs' Colleges and any institution maintained by the Governor General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants; and	

6. Public Works included under the following heads, All Governors' provinces, except Assam.  
namely :—

- (b) the following subjects shall be subject to legislation by the Indian legislature, namely —
- (i) the control of the establishment, and regulation of the constitutions and functions, of Universities constituted after the commencement of these rules, and
- (ii) the definition of the jurisdiction of any University outside the province in which it is situated, and
- (iii) for a period of five years from the date of the commencement of these rules, the Calcutta University and the control and organization of secondary education in the presidency of Bengal.
- (a) construction and maintenance of provincial buildings, other than residences of Governors of provinces, used or intended for any purpose in connection with the administration of the province on behalf of the departments of Government concerned, save in so far as the Governor may assign such work to the departments using or requiring such buildings ; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act ; provided that the Governor General in Council may, by notification in the Gazette of India, remove any such monument from the operation of this exception ;
- (b) roads, bridges, ferries, tunnels, ropeways and causeways, and other means of communication, subject to such condition, as regards control over construction and maintenance of means of communication declared by the Governor General in council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor General in Council may prescribe ;
- (c) tramways within municipal areas ; and
- (d) light and feeder railways and extra municipal tramways in so far as provision for their construction and management is made by provincial legislation ; subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.

All Governors' provinces, except Assam.



- |  |   |
|--|---|
| 7. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases ; subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian legislature. | All Governors' provinces.               |
| 8. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases ; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.  | Ditto.                                  |
| 9. Fisheries     ...     ...     ...     ...   | All Governors' provinces, except Assam. |
| 10. Co-operative societies     ...     ...     ...   | All Governors' provinces.               |
| 11. Forests, including preservation of game therein ; subject to legislation by the Indian legislature as regards disforestation of reserved forests.  | Bombay.                                 |
| 12. Excise, that is to say, the control of production, manufacture, possession, transport, purchase, and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.  | All Governors' provinces, except Assam. |
| 13. Registration of deeds and documents ; subject to legislation by the Indian legislature.  | All Governors' provinces.               |
| 14. Registration of births, deaths and marriages ; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.  | Ditto.                                  |
| 15. Religious and charitable endowment     ...     ...   | Ditto.                                  |
| 16. Development of industries, including industrial research and technical education.  | Ditto.                                  |
| 17. Adulteration of food-stuffs and other articles ; subject to legislation by the Indian legislature as regards import and export trade.  | Ditto.                                  |
| 18. Weights and measures ; subject to legislation by the Indian legislature as regards standards.  | Ditto.                                  |
| 19. Museums (except Indian Museum, Imperial War Museum, and the Victoria Memorial, Calcutta) and Zoological Gardens.   | Ditto.                                  |

## SCHEDULE III.

( SEE RULE 25. )

1. The following general rules shall be observed by every authority which sanctions expenditure from Government revenues :—

(1) Every public officer should exercise the same vigilance in respect of expenditure incurred from Government revenues as a person of ordinary prudence would exercise in respect of the expenditure of his own money.

Moneys borrowed on the security of allocated revenues should be expended on those objects only for which, as provided by rules made under the Act, moneys may be so borrowed.

Except where such order is of general application, no authority should exercise its powers of sanctioning expenditure to pass an order which will be, directly, to its own pecuniary advantage.

(4) Unless the amount of the expenditure is insignificant, Government revenues should not be utilised for the benefit of a particular person or section of the community except when—

(i) a claim for the amount could be enforced in a court of law ;

(ii) the expenditure is in pursuance of a recognised policy or custom ; or

(iii) the object is such that the expenditure thereon may be deemed to be of a charitable nature.

(5) No authority should sanction any expenditure which is likely to involve at a latter date expenditure beyond its own powers of sanction.

(6) The amount of allowances, such as local or travelling allowances, granted to meet special expenditure of a particular type should be so regulated that the allowances are not on the whole sources of profit to the recipient.

2. The previous sanction of the Secretary of State in council is necessary :—

(i) (a) to the creation of a permanent appointment which would necessitate an increase in the cadre of an all-India Service ;

(b) to the abolition of any appointment in the cadre of an all-India Service ;

(c) to any increase or reduction of the pay of any appointment in the cadre of an all-India Service ;

(ii) to the creation of any temporary appointment the maximum pay of which exceeds Rs. 1,000 a month and which lasts or is expected to last for more than two years, or, if the appointment be for settlement work, for more than five years ;

(iii) to the grant to any officer of an allowance which is not admissible under rules made under section 96 B. of the Act, or, in cases in which those rules do not apply, under the terms of any authorised Code issued or maintained under the authority of the said rules ;

(iv) to the grant to any retiring officer of a pension or gratuity which is not admissible under the rules for the time being in force under section 96B. of the Act ;

(v) to the grant of pensions or gratuities to non-officials, except in the case of—

(a) compassionate gratuities to the families of Government servants left in indigent circumstances,

(b) pensions or gratuities to the families of officers dying while employed in Government service granted in accordance with such rules as may be made in this behalf by the Secretary of State in Council,

(c) pensions or gratuities to non-officials injured or the families of non-officials killed during services rendered to the State, and

(d) pensions or gratuities to non-officials who have rendered exceptional services to Government ;

(vi) to any increase of the contract, sumptuary or furniture grant of the Governor ;

(vii) to any expenditure upon the purchase of stores, either in the United Kingdom or in India, otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council ; and

(viii) to any expenditure upon railway carriages or water-borne vessels specially reserved for the use of high officials, otherwise than in connection with the maintenance of the railway carriages already set apart with the sanction of the Secretary of State in Council for the exclusive use of the Governor.

*Note.*—Gratuities sanctioned under sub-clause (v) (a) of this paragraph should be subject as to total to such annual limit as the Secretary of State in Council may prescribe.

3. The previous sanction of the Governor General in Council is necessary—

(i) Subject to the provisions of paragraph 2 (i) of this Schedule—

(a) to the creation of a permanent appointment on a maximum rate of pay higher than Rs. 1,000 a month ;

(b) to the increase of the maximum pay of a sanctioned permanent appointment to an amount in excess of Rs. 1,000 a month ;

(ii) to expenditure on a residence of the Governor in excess of Rs. 75,000 in any year ;

(iii) to expenditure upon irrigation and navigation works, including docks and harbours, and upon projects for drainage, embankment and water-storage and the utilisation of water-power, in any of the following cases, namely :—

(a) where the project concerned materially affects the interests of more than one local Government ;

(b) where the original estimate exceeds 50 lakhs of Rupees ;

(c) where a revised estimate exceeds by 25 *per centum* or 50 lakhs of rupees, whichever is less, an original estimate sanctioned by the Governor General in Council.

(d) where a further revised estimate is proposed, after one revised estimate has already been sanctioned by the Governor General in Council ; and

(iv) to revisions, involving additional expenditure exceeding Rs. 15 lakhs a year, of permanent establishments serving in departments dealing with reserved subjects.

4. Apart from the restrictions imposed by paragraphs 1, 2, and 3 of the Schedule the power of sanctioning expenditure conferred upon the local Government by rule 25 shall be unlimited.

## SCHEDULE IV.

### SEE RULE 27.

1. The local Governments mentioned below shall, save as hereinafter provided, make in every year provision in their budgets for expenditure upon relief of, and insurance against, famine of such amounts respectively (hereinafter referred to as the annual assignments) as are stated against each:—

				Rs.
Madras	...	...	...	6,61,000
Bombay	...	...	...	63,60,000
Bengal	...	...	...	2,00,000
United Provinces	...	...	...	39,60,000
Punjab	...	...	...	3,81,000

				Rs.
Burma	...	...	...	67,000
Bihar and Orissa	...	...	...	11,62,000
Central Provinces	...	...	...	47,26,000
Assam	...	...	...	10,000

2. The provision shall be made in the shape of a demand for a grant, and the estimates shall show, under the major heads concerned, the method in which it is proposed to utilise the grant.

3. The grant shall not be expended save upon the relief of famine or upon the construction of protective irrigation works or other works for the prevention of famine. Any portion of the grant which is not so spent shall be transferred to the famine insurance fund of the province.

4. The famine insurance fund shall consist of the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph 3 of this Schedule, together with any interest which may accrue on these balances.

5. The local Government may, in any year when the accumulated total of the famine insurance fund of the province is not less than six times the amount of the annual assignment, suspend temporarily the provision of the annual assignment.

6. The famine insurance fund shall form part of the general balances of the Governor General in Council, who shall pay at the end of each year interest on the average of the balances held in the fund on the last day of each quarter. The interest shall be calculated at the average rate at which the Governor General in Council has during the year borrowed money by the issue of treasury bills. Such interest shall be credited to the fund.

7. The local Government may at any time expend the balance at its credit in the famine insurance fund for any of the purposes specified in paragraph 3 of this Schedule.

8. Such balances may further be utilised in the grant of loans to cultivators, either under the Agriculturists, Loans Act, 1884, or for relief purposes. When such loans have been granted, payments of interest on loans and repayments of principal shall be credited to the fund as they occur, and irrecoverable loans written off shall form a final charge against the fund.

9. In case of doubt whether the purpose for which it is proposed to spend any portion of the annual assignment or the famine insurance fund is one of the purposes specified in paragraph 3 of this Schedule, the decision of the Governor shall be final.

10. The annual accounts of the annual assignments and of the fund shall be maintained in the forms annexed to this Schedule.

## Transferred Subjects Rules

*In exercise of the powers conferred by section 52 (3) and section 129A. of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—*

1. These rules may be called the Transferred Subjects (Temporary Administration) Rules.

2. In cases of emergency where, owing to a vacancy, there is no minister in charge of a transferred subject, the Governor—

(1) shall, if another minister is available and willing to take charge of the subject appoint such minister to administer the subject temporarily ; or

(2) may, if the vacancy cannot be provided for in the manner aforesaid, himself temporarily administer the subject, and while so doing shall exercise in relation to such subject all such powers, in addition to his own powers as Governor, as he could exercise if he were the minister in charge thereof.

3. In any case in which the Governor himself undertakes temporarily to administer a subject under these rules, he shall certify that an emergency has arisen in which, owing to a ministerial vacancy, it is necessary for him so to do, and shall forthwith forward a copy of such certificate for the information of the Governor General in Council.

4. Such temporary administration by the Governor shall only continue until a minister has been appointed to administer the subject.

5. The Governor shall not exercise in respect of such subject the powers conferred on him by section 72E. of the Government of India Act.

## Scheduled Taxes Rules

*In exercise of the powers conferred by section 80A. (3) (a) and section 129A. of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—*

1. These rules may be called the Scheduled Taxes Rules.

2. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into con.

sideration any law imposing, for the purposes of the local Government, any tax included in Schedule I to these rules.

3. The Legislative Council of a province may, without the previous sanction of the Governor General make and take into consideration any law imposing, or authorising any local authority to impose, for the purposes of such local authority, any tax included in Schedule II to these rules.

4. The Governor General in Council may at any time, by order make any addition to the taxes enumerated in Schedules I and II to these rules.

5. Nothing in these rules shall affect the right of a local authority to impose a tax without previous sanction or with the previous sanction of the local Government when such right is conferred upon it by any law for the time being in force.

## SCHEDULE I.

1. A tax on land put to uses other than agricultural
2. A tax on succession or on acquisition by survivorship in a joint family,
3. A tax on any form of betting or gambling permitted by law.
4. A tax on advertisements.
5. A tax on amusements.
6. A tax on any specified luxury.
7. A Registration fee.
8. A stamp-duty other than duties of which the amount is fixed by Indian legislation.

## SCHEDULE II.

In this Schedule the word "Tax" includes a cess, rate duty or fee.

1. A toll.
2. A tax on land or land values.
3. A tax on buildings.
4. A tax on vehicles or boats.
5. A tax on animals.
6. A tax on menials and domestic servants.
7. An octroi.
8. A terminal tax on goods imported into a local area in which an octroi was levied on or before the 6th July, 1917.
9. A tax on trades, professions and callings.
10. A tax on private markets.
11. A tax imposed in return for services rendered, such as—
  - (a) a water rate,
  - (b) a lighting rate,
  - (c) a scavenging, sanitary or sewage rate,
  - (d) a drainage tax,
  - (e) fees for the use of markets and other public conveniences.

# Local Legislature Rules

*In exercise of the powers conferred by sanction 80-A. (3) (h) and section 129-A. of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—*

1. These rules may be called the Local Legislatures (Previous Sanction) Rules.

2. A local legislature may not repeal or alter without the previous sanction of the Governor General—

(1) any law made by any authority in British India before the commencement of the Indian Councils Act, 1861 : provided that the Governor General in Council may, by notification in the Gazette of India, declare that this provision shall not apply to any such law which he may specify and, if he does so, previous sanction shall not thereafter be necessary to the alteration or repeal of that law ; or

(2) any law specified in the Schedule to these rules or any law made by the Governor General in Council amending a law so specified.

Year.	No.	Short title.
1860	XLV	The Indian Penal Code.
1861	III	The Foreigners Act, 1861.
1865	III	The Carriers Act, 1864.
"	X	The Indian Succession Act, 1865.
"	XV	The Parsi Marriage and Divorce Act, 1865.
"	XXI	The Parsi Intestate Succession Act, 1865.
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.
"	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.
1867	XXV	The Press and Registration of Books Act, 1867.
1869	IV	The Indian Divorce Act, 1869.
1870	XXI	The Hindu Wills Act, 1870.
1872	I	The Indian evidence Act, 1872.
"	III	The Special Marriage Act, 1872.
"	IX	The Indian Contract Act, 1872.
"	XV	The Indian Christian Marriage Act, 1872.
1873	X	The Indian Oaths Act, 1873.
1874	III	The Married Women's Property Act, 1871.
"	XIV	The Scheduled Districts Act, 1874.
"	XV	The Laws Local Extent Act, 1874.
1875	IX	The Indian Majority Act, 1875.
1877	I	The Specific Relief Act, 1877.
1881	V	The Probate and Administration Act, 1881.
"	XIII	The Fort William Act, 1881.
"	XXVI	The Negotiable Instruments Act, 1881.
1882	II	The Indian Trusts Act, 1882.
"	IV	The Transfer of Property Act, 1882.
"	VII	The Powers-of-Attorney Act, 1882.



Year.	No.	Short title.
1889	IV	The Indian Merchandise Marks Act, 1889.
"	VII	The Succession Certificate Act, 1889.
"	XV	The Indian Official Secrets Act, 1889.
1890	VIII	The Guardians and Wards Act, 1890.
"	IX	The Indian Railways Act, 1890.
1891	XVIII	The Bankers' Books Evidence Act, 1891.
1895	XV	The Crown Grants Act, 1895.
1897	III	The Epidemic Diseases Act, 1897.
"	X	The General Clauses Act, 1897.
"	XIV	The Indian short Titles Act, 1897.
1898	V	The Code of Criminal procedure, 1898.
"	IX	The Live-stock Importation Act, 1898.
1899	IX	The Indian Arbitration Act, 1899.
1903	XIV	The Indian Foreign Marriage Act, 1903.
"	XV	The Indian Extradition Act, 1903.
1908	V	The Code of Civil procedure, 1908.
"	IX	The Indian Limitation Act, 1908.
"	XIV	The Indian Criminal Law Amendment Act, 1908.
"	XV	The Indian Ports Act 1908.
"	XVI	The Indian Registration Act, 1908.
1909	III	The Presidency-towns Insolvency Act, 1909.
"	IV	The Whipping Act, 1909.
"	VII	The Anand Marriage Act, 1909.
1910	I	The Indian Press Act, 1910.
1911	X	The Seditious Meetings Act, 1911.
1912	IV	The Indian Lunacy Act, 1912.
"	V	The Provident Insurance Societies Act, 1912.
"	VI	The Indian Life Assurance Companies Act, 1912.
1913	VI	The Mussalman Wakf Validating Act, 1913.
"	VII	The Indian Companies Act, 1913.
1914	II	The Destructive Insects and Pests Act, 1914.
"	III	The Indian Copyright Act, 1914.
"	IX	The Local Authorities Loans Act, 1914.
1916	XV	The Hindu Disposition of Property Act, 1916.
1917	I	The Indian Steam Vessels Act, 1917.
"	XXVI	The Transfer of Property (Validating) Act, 1917.
1918	X	The Usurious Loans Act, 1918.
1919	XI	The Anarchical and Revolutionary Crimes Act, 1919.
1920	V	The Provincial Insolvency Act, 1920.
"	X	The Indian Securities Act, 1920.
"	XIV	The Charitable and Religious Trusts Act, 1920.

## Reservation of Bill Rules

*In exercise of the powers conferred by section 81A. (1) and section 129A. of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—*

1. These rules may be called the Reservation of Bills Rules.

2. The Governor of any Governor's province shall reserve for the consideration of the Governor General any Bill, not having been previously sanctioned by the Governor General, which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor to contain provisions—

(a) affecting the religion or religious rites of any class of British subjects in British India, or

(b) regulating the constitution or functions of any University, or

(c) having the effect of including within the transferred subject matters which have hitherto been classified as reserved subjects, or

(d) providing for the construction or management of a light feeder railway or tramway other than a tramway within municipal limits, or

(e) affecting the land revenue of a province either so as to—

(i) prescribe a period or periods within which any temporarily settled estate or estates may not be reassessed to land revenue, or

(ii) limit the extent to which the assessment to land revenue of such an estate or estates may be made or enhanced, or

(iii) modify materially the general principles upon which land revenue has hitherto been assessed,  
if such prescription, limitation or modification appears to the Governor to be likely seriously to affect the public revenues of the province.

3. The Governor of any Governor's province may reserve for the consideration of the Governor General any Bill, not having been previously sanctioned by the Governor General, which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor—

(a) to affect any matter wherewith he is specially charged under his Instrument of Instructions, or

(b) to affect any central subject, or

(c) to affect the interests of another province.







# THE ESHER REPORT

## REPORT OF THE ARMY IN INDIA COMMITTEE 1919-1920

### TERMS OF REFERENCE

1. *To enquire into and report, with special reference to post-bellum conditions, upon the administration and, where necessary, the organization of the Army in India, including its relations with the War Office and the India Office, and the relations of the two Offices to one another.*

2. *To consider the position of the Commander-in-Chief in his dual capacity as head of the Army and Member of the Executive Council, and to make recommendations.*

3. *To consider and to report upon any other matters which they may decide are relevant to the enquiry.*

**To The Right Hon. E. S. Montagu, M.P.**

SIR,

In forwarding you the first part of our Report we desire to point out a difficulty with which we are confronted at the outset of our enquiry. We cannot consider the administration of the army in India otherwise than as part of the total armed forces of the Empire ; yet we have no indication of the form of organization which may be set up in the future for the control of other parts of those forces, or of the whole.

We have, it is true, been told that proposals for the higher direction of our Imperial forces are under consideration, and we are aware of the circumstances under which an Imperial Cabinet was formed during the late war. But the bases of permanent Imperial control over the organized forces of the Empire are as yet unalaid, and we have therefore been obliged to take existing statutes and usage as the foundation of the proposals we have made in accordance with the terms of our reference. The remedies which we shall venture to suggest for such defects in the Army

in India as may be disclosed in the course of our enquiry will, therefore, be made subject to the limitations we have indicated.

Novel political machinery created by the Peace Treaty has enhanced the importance of the Army of India relatively to the military forces in other parts of the Empire, and more particularly to those of the British Isles. We feel bound to assume that Western Europe will no longer be an armed camp containing national armies in a high state of preparation for war, and we note that conflicts fraught with the gravest consequences to the belligerent nations cannot in future take place within a few days or weeks of an order to mobilize. We realize, and the evidence of Lord Allenby confirms our belief, that the war has left Eastern Europe, and what is commonly known as the Near and Middle East, in a condition of grave unrest, with consequences to India, especially as regards her military and financial resources, that we are unable to ignore.

We are aware that during the war, the necessary co-ordination of the fighting strength of the whole Empire brought into existence what has been called an Imperial Cabinet, performing real functions of Imperial Government, and accepted apparently without demur by the united peoples. The evolution of this novel constitutional instrument is for the moment arrested. If the principle of an Imperial Cabinet composed of the Prime Ministers of Great Britain and the Dominions becomes rooted in our institutions, other changes connected with Imperial defence seem likely to follow.

An Imperial General Staff, an Imperial Naval and an Imperial Air Staff, possibly an Imperial Foreign Office, may become segregated under the leadership of the British Prime Minister of the day, but controlled by a body that from the nature of the case cannot be wholly responsible to the Parliament at Westminster. If India were again to be represented directly in a permanent Imperial Council or Cabinet, such as that summoned *ad hoc* during the war, the position of her Commander-in-chief might assume a special aspect different from that which we have had to consider. Desirable and perhaps vital as such an evolution of our institutions may be, the chances of its accomplishment are not immediate. We have, therefore, accepted for the purpose of our Report the relations of India to Great Britain and to the Empire as they stand to-day.

We desire also to mention that we have been requested, in considering our recommendations, to avoid, if possible, framing them in such a manner as may hereafter prove inconsistent with the gradual approach of India towards a Dominion status; and we observe that the Indian Constitutional Reforms recently proposed have

in view the relaxation of the control of the Secretary of State, as well as of Parliament, over the Government of India.

We are at the same time confronted with evidence of the continued reluctance of the India Office to relinquish into the hands of the Government of India greater freedom in the administration of the Army, even in cases where this could be done without compromising the administration of the Army at home or contravening the sound principle of uniformity in military policy. We are strongly of opinion that greater latitude should be allowed to the Governor-General in council and to the Commander-in-Chief in India in matters affecting internal military administration, in order to secure greater efficiency, and especially the greater contentment of the army in India.

At the same time we lay stress upon the importance of maintaining constant and intimate touch between the Commander-in-Chief in India and the Chief of the Imperial General Staff in London and between their General Staff Officers.

Taking, then, existing institutions and the present conditions in India as the basis on which to work, we consider that we shall be laying the foundations of a sound Imperial military system, if the plans we propose are consistent—

(1) with the control by the Government of India of Indian military affairs ;

(2) with giving to the Government of India a voice in questions of Imperial defence, and

(3) with allowing the Imperial General Staff through its Chief to exercise a considered influence on the Military policy of the Government of India.

Keeping these principles in mind, we propose to submit our Report to you in several parts, and to report on each separately. Part I is forwarded herewith, and deals with matters upon which a great mass of evidence already exists in documents laid before us. We have therefore not thought it necessary to travel once more over ground investigated by numerous committees and commissions, and by eminent Viceroy's and Commanders-in-Chief in past years.

We have limited our enquiry upon these matters to obtaining the views of distinguished soldiers of recent war experience, and we have found that their conclusions are in general agreement with the recorded opinions of Lord Lytton and Lord Kitchener.

At the outset of our inquiry it was necessary to decide whether formal evidence should be taken. After consideration, we determined that it was undesirable to add to the mass of documentary evidence already available. We consequently decided to take counsel with high officers, military and civil, and certain independent



persons whose views and experience could simplify our task, but not to record their evidence formally. We have thus obtained expressions of opinion given with complete freedom, and, coupled with the experience of the members of the Committee, they have been of great value to us in forming our conclusions.

We desire to remind you that the subsequent parts of our Report, dealing as they are bound to do with matters of administrative detail, would be largely influenced by the decision at which you may arrive to accept or reject the proposals we have made in Part I. So convinced are we of the desirability of obtaining a decision of His Majesty's Government on the principles laid down in Part I before proceeding to the laborious examination of the numerous questions covered by our reference, that we have thought it imperative to place Part I of our Report in your hands before the Committee proceeds to India. It would facilitate the work of the Committee, and would render their complete report of greater value to His Majesty's Government and to the Government of India, if we could obtain from you at an early date an indication of the advice you are likely to tender to His Majesty's Government upon the principal questions covered by Part I of our Report.

We are,

Sir,

Your obedient Servants,  
ESHER.

M. F. O'DWYER.

H. V. COX, LIEUT-GENL.

CLAUD W. JACOB, LIEUT-GENL.

J. P. McCANE, LIEUT-GENL.

G. FELL.

WEBB GILLMAN, MAJ-GENL.

C. M. WAGSTAFF, BRIG-GENL.,

*Secretary*

*The 3rd November, 1919.*

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## PART I.

## SECTION I.

*The India Office.*

1. The relations between the India Office and the Government of India are presumably based upon the importance of keeping the control of Parliament as far as possible intact over Indian expenditure. The theory, sound in itself in view of the bureaucratic form of Government in India, has proved to be illusory in practice. The business of Parliament is too great and too complex to enable any effective control to be exercised by the House of Commons over Indian expenditure. In practice, therefore, the control of the India Office has been merely the control of one bureaucracy over another.

The working of this system undoubtedly causes delay in dealing with military questions that frequently require rapid settlement, both in the interests of efficiency and of the contentment of the Army in India. We, therefore, recommend that greater latitude should be allowed to the Governor-General in Council in deciding questions of a military character, provided they do not influence by reflex action the administration of the British Army at home.

2. From 1909, and particularly during the war, the rule was relaxed under which all communications of a military nature between the Commander-in-Chief and the War Office passed through the India Office. During the war the Commander-in-Chief in India communicated direct with the War Office. We consider that this freedom of communication should now be established as a permanent right on a regular official basis ; but should be limited to communications between the Commander-in-Chief and the Imperial General Staff. The Secretary of State for India should be kept fully informed of such communications.

3. In order to facilitate what we consider of primary importance, namely the free and intimate relation between the Commander-in-Chief in India and the Chief of the Imperial General Staff, and in order that the Secretary of State for India should also be fully informed upon all questions of military policy affecting India, we recommend that the Secretary in the Military Department of the India Office should always be an officer with Indian experience, of high military rank, appointed on the recommendation of the Chief of the Imperial General Staff by the Secretary of State for India. It would be convenient and desirable that this officer should be a Deputy Chief of the Imperial General Staff in order that the Chief of the Imperial General Staff may have the benefit of experienced advice on Indian matters. Furthermore, he should

have the right of attending the meetings of the Army Council when questions affecting India are discussed. Although we strongly advocate that questions of administration regarding the Army in India should be mainly settled in India itself, and should only be referred to the India Office under the circumstances which we have previously noted, we are of opinion that the Secretary in the Military Department of the India Office should have attached to his Department two officers specially conversant with "A" and "Q" questions, in so far as they affect India.

4. We are unable to see any advantage, from the point of view of India, in retaining upon the India Council in London the services of an officer of high military rank. It is undesirable that the Secretary of State for India should be left in any doubt as to the quarter from which military advice should be offered him. The principle upon which we think it important to insist is that the sole responsible military adviser of the Secretary of State should be the chief of the Imperial General Staff. This advice could be tendered either through his Deputy Chief established in the India Office, or directly by the Chief of the Imperial General Staff himself, who should be authorized to attend any meeting of the Council of India at which military questions of first importance are to be discussed.

5. We recommend in Section III that the Commander-in-Chief in India shall be appointed with the concurrence of the Chief of the Imperial General Staff, and that the commander-in-Chief shall be the sole military adviser of the Government of India. If this system can be established, the chain of military responsibility for questions of an Imperial character will be complete. On the one hand, the Commander-in-Chief will look to the Chief of the Imperial General Staff for supreme direction in all questions of Imperial military policy in which India is concerned; and, on the other hand, the Governor-General will look to the Commander-in-Chief for military advice upon questions in which India only is concerned, and also upon questions of a wider military character with confidence that the Commander-in-Chief will be in a position to express upon the latter the considered views of the Chief of the Imperial General Staff.

6. We believe that, under the plan thus proposed, the Government of India will retain its statutory control over the Army in India, that the Governor-General will be assured of undivided counsel upon military questions, and that uniformity of military policy will at last be established between Great Britain and India.

## SECTION II.

*Defence Committee.*

7. Our attention has been called to the Committee of Defence set up in India by the Governor-General during the war. Its composition and functions follow those of the Committee of Imperial Defence in this country as they were understood to be after it was reconstituted on a new basis in 1902 and before the establishment of its permanent Secretariat in 1905.

That Committee was consultative and not executive. It had no administrative functions. It could not prescribe a policy or give directions. Its duty was to advise. It interfered with no existing authority. It possessed no fixed constitution, and the persons composing it were selected by the Prime Minister from among his colleagues and their technical assistants, with the addition of any person whose advice he might desire to obtain upon the matters about to be discussed. The Committee, in short, contained no *ex-officio* member except the Prime Minister himself, and this flexibility, as Mr. Balfour pointed out at the time, gave it an advantage of first-rate importance in dealing with the manifold subjects that gather round the problem of national defence.

8. Such, we understand, was the body upon which the Governor-General modelled the Defence Committee in India, and we are firmly convinced that, taken in conjunction with the existence of the War Book, which had been prepared in 1914, it contributed valuable assistance towards bringing India into line with Great Britain during the war, and that it should not be allowed to disappear.

We recommend that its Secretary should be a member of the Governor-General's Private Secretariat, and that he should have charge of the records and be responsible for the preparation and upkeep of the War Book.

9. The War Book, designed by Sir Maurice Hankey some years before 1914, was planned with a view to the instant mobilization of all Government departments at home on the outbreak of war. For the first time in this country the attention of all Departments of Government was drawn to the fact that war was not the sole business of the Admiralty and the War office, but that it was the concern of practically every Department of State. The Defence Committee, by its composition and its methods of working first suggested this somewhat novel conception of modern war, but the War Book stereotyped it and fixed it indelibly in the minds of the whole Civil Service.

The War Book prepared in India in 1914 has been laid before us. It is a work of such value that we strongly recommend that it should be constantly revised and kept up-to-date by the officer we have designated, who will, at the same time, be the Secretary of the Defence Committee.

We would suggest that the Secretary of the Indian Defence Committee should be placed in direct touch with the Secretary of the Imperial Defence Committee in London, so that as far as possible the measures concerted by the latter should be applied by the Governor-General in India, so far as they are appropriate, to local conditions.

### SECTION III.

#### *The High Command.*

10. The definition of the High Command in India in future requires a few preliminary words of explanation. We have before observed that our attention has been drawn to the importance of keeping in view in any proposals we may make, the gradual approach of the Government of India to a Dominion status. We have also kept before our minds the possibility that, in the near future, Imperial control over the military policy of the Empire may take a form other than that which obtains at the present time, leading to the establishment of a real Imperial General Staff deriving its authority not from the War office and the British Parliament, but from an Imperial Council such as that contemplated in 1907, which materialized in the course of the late war, in what has been called an Imperial Cabinet.

We have, however, felt ourselves obliged to base the recommendations we are about to make upon existing facts. We are unable to admit any close resemblance between the principles which are applied to army administration in this country, governed as it is under democratic Parliamentary institutions, and the conditions that obtain in India, where the Government remains of a bureaucratic character with such Parliamentary checks as are found to be possible. No analogy exists between the Government of India and that of any European country. It appears to us, therefore, that Army administration in India must conform to the principles laid down by the statutes upon which that Government is based, which place the control of the Army in India in the hands of the Governor-General in Council.

11. We have endeavoured to superimpose upon the existing fabric of Indian Army administration the General Staff idea. In

other words, while leaving the control of the Army in India to the Governor-General in Council, we have tried to knit closer the relations between the High Command in India and the High Command as it now exists at the centre of the Empire. We have considered and rejected the proposal to establish in India a Civilian Member of the Executive Council responsible for the Army, and an Army Council with collective responsibilities, as unsuited to Indian requirements at the present time. Among the numerous recommendations that have been made in former years for the reconstitution of the War Department, we have adopted that of Lord Lytton, that the Commander-in-Chief should be himself the only military member of the Viceroy's Council, and we have not thought it conducive to good administration that upon the Executive Council the Commander-in-Chief should have any military colleague or competitor entitled to deal with the administration of Army affairs.

12. We recommend that in future the Army Department and the Headquarters Staff should be consolidated under one head, and with a single Secretariat, which is not at present the case, and that the Commander-in-Chief should be in that capacity considered to be the administrative, as well as the executive head of the Army, subject only to the Governor-General in Council, in whom the supreme control of the Army is vested by statute. Every trace of the duality of functions resulting from the same officer being Commander-in-Chief and Member-in-Charge of the Army Department should be swept away.

13. We are of opinion that the financial responsibility of the Commander-in-Chief should not be divorced from his executive responsibilities, and that while his purely military status should be in no way affected, it should be recognized that he possesses a personal and professional interest in and responsibility for the economical administration of Army funds. We are in agreement with the view that the Commander-in-Chief should be looked upon by all His Majesty's Indian subjects and feudatories in India as the depository and representative of a personal authority, second only to that of the Viceroy, and we are strongly of opinion that any change in the position of the Commander-in-Chief which would have the effect of weakening that authority, is inadvisable.

14. We propose that a Military Council should be established, composed of high staff officers and others to assist the Commander-in-Chief in the performance of his administrative functions. This body would have no collective responsibility. Its members, however,

would be individually responsible for the branches they would be called upon to administer.

15. We hold the position of the Secretary to Government in the Army Department, as it is generally understood, to be inconvenient and undesirable, as rendering possible an interference with the sole right of the Commander-in-Chief to offer military advice to the Governor-General in Council.

16. We propose to deal in Part II of our Report with the personnel of the Military Council and their respective functions, responsibilities and powers.

17. We are in agreement with the General Staff view that the Commander-in-Chief in India should be more directly in touch with the Chief of the Imperial General Staff, with a view to obtaining increased efficiency as regards the organization, equipment and training of the Army in India, so as to develop the military resources of India in a manner suited to Imperial necessities. We have already stated that, in our view, the Commander-in-Chief in India should have the established right to communicate in peace with the Chief of the Imperial General Staff in London with regard to strategical plans, war organization, training and the selection for commands and senior staff appointments. But we are not prepared to dogmatise as to whether the Government of India or the Imperial Government at Whitehall is to be responsible for the military safety of India. It is obvious that, if the gradual approach of India to a Dominion status is to be taken as an axiom, this question can be resolved only by the exercise of judgment, tact, and the principle of "give and take." We, however, are strongly of opinion that while unity of administration is for the present out of the question, unity of conception on broad lines of military policy, such as those for which an Imperial General Staff should be responsible, is essential in the interests of India herself and of the Empire as a whole. For this reason we suggest that the Commander-in-Chief in India should be appointed by His Majesty's Government on the recommendation of the Chief of the Imperial General Staff, and that the same procedure should be observed in the appointment of the Chief of the General Staff in India. Should this recommendation be approved, given a close co-operation and correspondence between the Chief of the Imperial General Staff and the Commander-in-Chief in India, we believe that as much will have been done towards securing unity of military purpose as can be profitably accomplished at the present time.

18. We have said that, in our opinion, the Commander-in-Chief should be the sole military adviser of the Government of India. So

important a function carries with it a necessity that the Commander-in-Chief shall be in the closest relation to the Governor-General in Council during the progress of hostilities and at all moments in peace when military questions of the first importance come under discussion. At the same time, we cannot disregard the importance of personal inspection from time to time of the larger army formations by the Commander-in-Chief himself. During his absence from headquarters under peace conditions, we therefore recommend that he should delegate to his Chief of the General Staff such functions as he thinks may be properly exercised by that officer during his absence. We do not contemplate that under any circumstances the Commander-in-Chief should himself take the field in war. In our view the command of military operations, whether on a large or small scale, should always be entrusted to an officer specially selected for that purpose. We are too well aware of the inconvenience and danger created in 1914 by stripping the War Office of its most experienced advisers and administrators, to desire to see a repetition in India of so unfortunate an incident. To the personal influence of the recognized head of the Army of India, especially over Indian troops, we have already alluded, and while we are anxious that it should not be supposed that we depreciate the value of his making himself thoroughly acquainted with the sentiments and requirements of officers and troops in all parts of India, we desire to make clear that, during moments of tension, it would not be consistent with the efficient discharge of his highest duties to absent himself from the Council table of the Governor-General.

19. We are convinced that the Commander-in-Chief, as being an "extraordinary" Member of Council, could be relieved of considerable technical responsibility. There appears to us no sound and valid reason why his signature should be obtained to despatches from the Government of India upon questions which have no military significance or importance, or that he should be required to study and record his opinion on cases which relate exclusively to the civil administration. We are sure that a liberal interpretation of the necessities of Indian administration would lead to an appreciable reduction of his duties. We, therefore, recommend that he should be excused attendance at the Executive and Legislative Councils except when the business under discussion affects military interests.

20. We have refrained from exploring in detail the functions which, in our view, should in future be imposed upon the Military Council which we have recommended. We believe that this can best be done after the visit of the Committee to India.



21. The recommendations we have made in Part I of our Report are based upon general principles to which the whole Committee have given their adherence, upon a mass of documentary evidence that has been at their disposal and upon the conferences between the members of the Committee and officers and others with profound experience of the working of army administration in India, previous to the war, during the war and since the armistice.

We offer these recommendations to the Secretary of State for India in the hope that he will obtain for them the early sanction of His Majesty's Government, in order that the labours of this Committee may not, like those of so many others, be thrown away.

C. M. WAGSTAFF,  
BRIG.-GENL.,  
*Secretary.*

ESHER.  
M. F. O'DWYER.  
H. V. COX, Lieut.-Genl.  
CLAUD W. JACOB, Lieut.-Genl.  
J. P. DUCANE, Lieut.-Genl.  
G. FELL.  
W. GILLMAN, Maj.-Genl.

*The 3rd November 1919.*

### [NOTE]

[The first Part of this Report was drawn up in England before the 2 Indian Members could join the Committee, so that the Indian members had no opportunity of expressing an opinion, nor was their signature taken.

The sittings of the committee were in Camera. There was no public examination of witnesses or a record of evidence given. The Committee relied mainly on the recorded opinions of previous Committees and Commissions, Viceroys and Commanders-in-Chief, and the whole procedure was reminiscent of the public activity of Sir Michael O'Dwyer, the notorious ex-satrap of the Punjab, who alone really guided the deliberations of the Committee. Viscount Esher never came out to India; he simply signed the 2nd. and other part of the report as it was prepared under the guidance of Sir M. O'Dwyer.

Another secret manœuvre in presenting this report is that the first part which lays down principles of the most reactionary and novel form was submitted to the Secretary of State in November 1919, but it was never made public till the whole report was ready. Not only were the Indian members excluded from this part, but the Army Committee seemed to have exacted from the Secretary of State a sort of guarantee and acquiescence in the principles enunciated therein before they proceeded to the details of Army Reform. The covering letter of Part II, which follows, refers to this matter pointedly.]

# Report

## Of the

# Army in India Committee 1919-20

### Part II

*To the Right Honourable E. S. Montagu M.P.*

SIR,

Throughout this Report, we have been guided by the consideration that the army in India, as in all civilised States, furnishes the ultimate sanction for the security of the people against external aggression and for the maintenance of internal tranquility. We are impressed by the necessity of maintaining this instrument, placed as it always must and should be in the hands of the civil power, in the highest state of efficiency. Whatever form the future Government of India may take, however it may be democratised, and whatever advance may be made on the part of the various sections of the Indian community towards national and imperial unity, the army cannot fail to remain a vital attribute of Government in the hands of the dominant authority.

The proposals made by us in Part I having been in the main approved by you, we have in Part II attempted to deal with the difficult question of Supply, to explain in detail the functions which, in our view, should be imposed upon the Military Council, the constitution of which we recommended in Part I, and to make certain proposals regarding Military Finance.

We propose that a Military Council should be constituted for the purpose of assisting the Commander-in-Chief, with a view to relieving him, not of his responsibility, but of manifold duties which, without impairing that responsibility, he can, and should, delegate to his staff officers at Army Headquarters. We desire to impress upon the Commander-in-Chief and upon the officers in question the absolute necessity of carrying out loyally and to the full this principle of delegation. All sound administration is based upon it. No administrator, however able and however conscientious, can

interpret responsibility in the sense of giving personal attention and sanction to every act of administration, if the accomplishment of his task is to stand the test of efficiency.

In the constitution of the Military Council, in the functions we have allotted to its various members, and in the handling of this difficult question of military supply, we have all been guided by the supreme consideration of the efficiency of the army in war, coupled with a due regard to the best interests of the Indian tax-payer. We aim at establishing a system which, while it will work simply and economically in time of peace, will be adaptable, without undue friction and disturbance, to the conditions even of such a war as that in which the Empire has recently been engaged.

We lay stress upon the importance, as it appears to us, of organising in India a system of military administration which will establish a chain of responsibility from the Commander-in-Chief himself through his Military Council to the military commands, and so down to divisional units, in order that the test of war, whenever it is applied, shall find ready to hand a body of men expert in administration as well as in command, ready to meet its exigencies. While we are anxious to see officers from their youth up trained in administration as well as in general staff duties, we are conscious that, under a voluntary system such as ours, it is impossible to rely wholly for the administration of the army upon the soldier. There are certain spheres of administration into which a civilian element must not only be introduced, but should be cordially welcomed. This axiom especially applies to the region of provision and production of material, which is essential to the military needs of an army in peace time and in the field. The provisioning of an army with all that it requires, which is ordinarily covered by the term "supply," has been considered carefully by us in consultation with the most experienced authorities, both in India and at home. There has been much conflict of opinion and we have been furnished with advice in diverse forms. Powerful arguments, supported by experience in war and by knowledge of Indian conditions, have been used in the course of our discussions in favour of various solutions of what is admitted to be a complicated problem.

The recommendations which we have made in Part II have been signed by us, but we regret that in regard to section I a divergence of views has occurred.

While detracting from the constructive value of our report, this divergence of opinion will not, we venture to hope, prove a serious obstacle in attempting to arrive at a decision upon the functions to be vested in the Commander-in-Chief.

We are all agreed in our recommendations regarding the composition and functions of the Military Council, except to the extent that the minority desire to see added to it a member, with the title of Surveyor-General of supply, to whom they would entrust those functions of production and provision which the majority advocate placing under a separate Member of the Executive Council.

We are,

SIR,

Your obedient Servants,

ESHER.

M. F. O'DWYER.

H. V. COX, *Lieut.-Genl.*

J. P. DUCANE, *Lieut.-Genl.*

CLAUD W. JACOB, *Lieut.-Genl.*

H. HUDSON, *Lieut.-Genl.*

G. FELL.

WEBB GILLMAN, *Major-Genl.*

UMAR HAYAT.

K. G GUPTA.

C. M. WAGSTAFF, *Colonel, Secretary.*

19th May 1920.

#### Production Provision

The majority consisting of Sir Michael O'Dwyer, Herbert Cox, Sir Claud Jacob, Sir Godfrey Fell, Sir W. Gilman and Sir K. Gupta incline to the view that the military production and provisions, as also the administration of Royal Indian Marine, should be entrusted to the department to be called "Department of Munitions and Marine" in charge of civilian member of the Governor-General's Executive Council; while the minority composed of Lord Esher,

John Du Cane, Sir Havelock Hudson and Sir Umar Hayat Khan favour solution by appointing a civil member of the Commander-in-Chief's Military Council and placing the Royal Indian Marine directly under the Commander-in-Chief against the idea of placing a civilian under immediate and direct control of the Commander-in-Chief. The majority point the enormous difficulties that would arise in future in regard to labour and the growth of trade unionism which would affect the working of Government factories under the Reforms Scheme. The responsibility for the expenditure of nearly half of the total revenues would rest on the shoulders of one man (Commander-in-Chief) and, therefore, the creation of a separate department for production and provision would result, in their opinion, increased efficiency and consequent economy, thus tending to minimise public criticism. The minority challenge these majority conclusions as being irreconcilable with the fundamental principle of concentrating the command and administration of the army in the hands of a single responsible authority. The civilian member according to the minority, should be called the "Surveyor General of supply," and he should be a member of the Military Council, in which capacity he would be in constant touch with his military colleagues.

Further relief could be afforded to the Commander-in-Chief, if the Secretary, Army Headquarters, or one of the members of the Military Council, were authorised to attend meetings of the Legislative and Executive Councils on behalf of the Commander-in-Chief in order to explain the questions of military administrations as also before the Viceroy. The Committee, as a whole, think that the Commander-in-Chief should be the President of the Military Council, of which the members should be: (1) Chief, of the General Staff, (2) Adjutant General, (3) Quarter master-General, (4) Financial Adviser, and (5) Civil Member and Secretary, Army Headquarters, with provision that, in the event of the minority view prevailing, the Council would include a Surveyor-General of supply.

## Financial Control

As regards functions, the Military Council can have no collective responsibility, and one of their principal duties is to watch the progress of military expenditure with a view to securing economical use of Army Funds. Other recommendations are summarised below:—

### Summary of Recommendations.

(a) That the system under which financial control is exercised at Army Headquarters should be continued.

(b) That the Financial Adviser should be a Member of the Military Council.

(c) That there should be a Deputy Financial Adviser in each of the principal spending branches of Army Headquarters and in the Royal Air Force, with functions as described.

(d) That whatever arrangement is made for production and provision, there should be at headquarters a Controller of Ordnance Factory Accounts, who would also act as Deputy Financial Adviser to the authority responsible for administration. This Controllers' functions might extend to the clothing factories ; but, if this is not found practicable, there should be a separate Controller for the latter.

(e) That the system under which separate finance and accounting offices are attached to the ordnance factories should be extended to the clothing factories.

(f) That the accounts and audit relating to contracts should be concentrated under a Controller at headquarters, who should also act as Deputy Financial Adviser to the administrative authority.

(g) That a Controller should be attached to the office of the Director, Royal Indian Marine, at Bombay to maintain the marine accounts and to act as Deputy Financial Adviser to the Director.

(h) That for the present no change should be made in the arrangements under which financial assistance and advice are given in commands and divisions.

(i) That no change should be made in the status and duties of the Military Accountant-General.

(j) That the Controller and Auditor-General should exercise more definite authority over the audit staff of the Military Accounts Department.

(k) That the responsibility for preparing their estimates and administering their grants should be definitely placed on the heads of branches at Army Headquarters and of the officer commanding the Royal Air Force.

(l) That the military accounts should be maintained in such a form as will enable the heads of branches to watch the progress of expenditure, with a view to savings being made available for other objects.

(m) That prompt information should be afforded to the Government of India regarding the progress of expenditure at home on stores, etc.

(n) That there should be a block vote for each arm of the service and for the Royal Air Force.

(o) That savings effected in the "on-costs" of factories should be available for expenditure on the improvement of the factories.

(p) That the spheres of financial responsibility of the Commander-in-Chief and the Member for Munitions and Marine (if this department is formed) should be defined on the lines indicated.

(q) That the Financial Adviser at Army Headquarters should also be the Financial Adviser to the proposed Department of Munitions and Marine.

(r) That a radical change, on the lines proposed by the Government of India, should be made in the system under which pay is disbursed.

(s) That the regulations dealing with pay, allowances, leave, pensions, etc., should be revised.

### Part III—Decentralisation and Liaison

Part Three deals exclusively with the decentralisation and liaison, and after examining the present organisation of commands in India, draws attention to the proposal that India should be divided into fourteen separate areas to be called districts in order to provide a link between the army headquarters and districts, with a view to avoid return to a state of affairs which existed before the war. The Committee recommend the creation of four commands, each under an army commander, graded as General officer commanding in chief with adequate staff. These commands will comprise districts, each containing a certain number of brigade commands. Burma should form an independent district, and several districts should be classified according to their importance. This part of the report also deals with the internal security and liaison between the military and civil authorities, and urges the importance of establishing a close and regular liaison with Provincial Governments, the extension of Indian military and civil intelligence near and far East, Europe, America and Africa, with a view to counteract seditious and revolutionary movements calculated to tamper with the loyalty of troops. Lastly, the Committee emphasise the importance of propaganda and a greater use of the press, adding that the value of the press in India as a medium for information appears to have been neglected in the past.

### Part IV—Organisation of Air Forces Etc.

Part four : The Committee believe that the last war has made it clear that India's partnership in the Empire demanded that the organisation of Air Forces should conform closely to the rest of the force of the Empire. For the attainment of this object, steps are suggested so as to secure closer relations between the British and Indian armies. The recommendations, therefore, aim on the assimilation of conditions, closer liaison, uniformity of ideals and interchange of officers among British and Indian's services.

As regards regimental offices, the Committee recommend a scheme for forming closer connection between the British officers cadre of the Indian Army and that of the British Army, and has shown the necessity for assimilating so far as practicable the organisation and system of administration of the services concerned with the feeding of the army, transport, stores, medical assistance, signalling.

After detailed examination, the Committee consider the completion of the Royal Army Service Corps and the Supply and Transport Corps as yet impracticable, but desire more in the direction of unification of the two corps.

Coming to the veterinary service, the Committee approves the scheme of reorganisation now under consideration of the Government of India, but suggest the admission of qualified Indians to commission in veterinary service by removing the existing racial bar.

The *personnel* of the Signal Service should be definitely posted to the corps. A joint service called Army Ordnance Corps, India, should be formed.

The Committee then proceed to examine the possibility of unification of the two medical organisations with the Indian Medical Service, and the Royal Army Medical Corps. After critical examination of the various suggestions put forward by responsible authorities the Committee are reluctantly forced to say that the amalgamation of the two services at present is impracticable. They however, suggest some reforms to secure a more harmonious working and closer co-operation between these two services.

Conditions in India are such that the amalgamation of pioneers and engineers is not advisable in the organisation of army headquarters. Field engineers' training should be co-ordinated by a Senior Royal Engineer Officer affiliated to the General Staff, and that military works services should become a directorate under the Quarter-Master-General in command. Chief Engineers should be retained. The Committee emphasises the need for close co-operation in training and military education between Home and Indian armies to afford higher appointments. If the Commander-in-Chief belongs to the British service, two of his three principal staff officers (C.G.S., A.G. and Q.M.G.) should belong to the Indian Army; while, if the Commander-in-Chief belongs to the Indian Army, two of the principal staff officers should come from the British service.

#### Part V—Amelioration of Conditions of Service.

The Committee are aware of the spirit of unrest and dissatisfaction in both armies arising, *inter alia*, out of the complexity of the regulations governing pay, leave and travelling allowances, and want of suitable accommodation. After em-



passing the necessity of complete revision of the regulations, they urge that considerations of finance should not be allowed to postpone the urgent work of providing suitable accommodation, as, otherwise, it will affect the efficiency of the army. Recent changes and reforms have, no doubt, proved another unsettling factor in the minds of the British officers, but this feeling will, it is hoped, pass away in time. The Committee's intention is to render the service sufficiently attractive to secure a constant flow of the best of Sandhurst cadets and to ensure that the officers who are selected for the army and the British service officers while stationed in India, remained contented throughout the service. With this object in view, they propose several practical and detailed suggestions regarding pay and pensions, concessions, travelling and detention allowances, medical attendance, family pensions, funds, *etc.* They are convinced that each mounted officer should be provided, free of charge, with the authorised number of chargers, as also hospital accommodation for wives and families of British officers in places where European doctors are available. In applying the uniform rate of pay to all British officers in India or in service elsewhere, the Committee suggest that the present system of fixing the pay on rupee basis to be continued, that the pay of the ranks of officers be assimilated to consolidated pay of British service officers in India of corresponding rank and length of service, that all officers be given an allowance of Rs. 100 per month, except when serving as departmental or staff officers on consolidated rates of pay, that the consolidated pay should include the element of certain overseas or expatriation allowance, *etc.* In making some improvements in barracks accommodation, state of regimental institutes, Church parade service, *etc.*, the Committee remark that the present day soldiers have neither deep-seated discipline nor long-suffering patience. Their responsible aspirations must, therefore, be met and their idiosyncracies sympathetically studied if they are to be contented while serving in India.

#### Disabilities of Indian Officers.

In regard to Indian officers, the Committee assert that there is a feeling among them that they can never rise higher in rank than a Risaldar-Major or Subedar Major. Their disabilities are due to want of education, which is now one of the essential conditions of leadership. Nevertheless, it is not forgotten that they have displayed devotion to duty which is beyond praise. All Risaldars are placed on the same scale of pay, and specified recommendations are also made regarding additional regimental pay of Indian Adjutants and Indian Quartermasters of the units, as they are usually the best educated and smartest of young Indian officers. Believing that it

would be much to the benefit of the country, some of the brave and loyal gentlemen are given opportunities to fit themselves to compete on something approaching to equal terms with the sons of the more wealthy classes. The Committee welcomed the establishment of the Kitchener College, which seems likely to meet the need. The Indian members of the Committee raised the question of instituting an Indian Sandhurst, but they agreed eventually that the time is not yet ripe for the consideration of such a scheme.

#### Family Pensions.

In regard to family pensions, the Committee feel very strongly that any Government which sends a married soldier of any race to war in which he loses his life, should be actually responsible for providing pension sufficient to keep his widow and children from want, and should not make its contributions dependent on the intricacies of family system into which it cannot penetrate. Any grants of lands to soldiers should be on "service terms," and grants of land abroad to deserving Indian officers and soldiers should be kept in view by the Government of India, and if possible, land in British Guiana or East Africa might be granted to Indian settlers.

#### Part VI—Indian Territorial Force.

The Committee regret the response to the Indian Defence Force (Indian Section) was not encouraging, except the working of the University Corps which offered the best material for a Territorial Force. They, however recognise the need for a National Defence Force, but apprehend some practical difficulties. They insolently note that some students, who were members of the Indian Defence Force, took part in the Panjab disorders last year, and the highest military authorities, therefore, they say do not want to run more risks than necessary, so that the same force, which they may organise, may not be used against them!

The highest military authorities in India accept the principle of a national defence force and are of the opinion that it is one to be encouraged. But they add:—"Not only have we to bear in mind the risks that we run in organizing a force that may be used against us in one way or another, but we have to create or revive the necessary military qualities in a collection of different races who are striving under our control to evolve a common nationality, and with it the ideal of national participation in the defence of their country. We do not want to run more risks than is necessary: we do not want to interfere unduly with religious or local customs and ideals, and we do not want the country generally to get tried of what is admittedly an experiment before the desired result is attained.."

The recommendations of the Committee are :—

(1) The proposed force must not impair the efficiency of the regular army, or compete with it in recruiting among classes from which the army has hitherto been drawn. While it will primarily be limited to the urban population and the universities, other classes on which the army has hitherto not drawn will not be excluded.

(2) The formation of the force should not be made a reason for reducing the strength of, or expenditure on, the regular army.

(3) It should be co-ordinated with the regular army and be under control of the military authorities ; the establishment of a unit should be the same as that of a regular unit ; the organization and training should be carried out with a view not only to aiding the civil power in maintaining internal security, but also to sharing eventually in the duty of defence against external aggression.

(4) The co-operation of Provincial Governments should, as far as possible, be secured, and local advisory associations should be established to assist in recruiting and in providing funds and facilities for subsidiary purposes which cannot be met from the military grants.

(5) Enlistment should be voluntary, between the ages of 18 and 30, with liability for general service in India, and for a period of four years which may be extended if recommended by the commanding officer.

(6) Training of cadets in schools should be limited to physical training and drill without arms.

(7) University companies should be encouraged, but strictly limited to the students and staff ; the men should take their discharge on completion of the university course, but should be eligible for transfer to a non-university unit. Rural units or companies should be discouraged, if likely to compete with regular recruiting.

(8) Liability for general service in India should be insisted on from the start ; without it, there is little prospect of this force ever becoming an asset of any military value.

(9) Training should be arranged for all units by the military authorities, in consultation with the advisory committees, so as to interfere as little as possible with normal avocations or studies.

(10) Pay and allowances should be at Indian Army rates during periods of annual training or embodiment ; in the case of university corps, for the period of the annual camp only.

(11) A limited number of specially selected British officers—*e.g.*, commanding officers, second-in-command and adjutant—with an instructional staff of non-commissioned officers, should be attached

to each unit. The commanding officer and second-in-command be replaced by Indians as the latter become trained ; and in time Indian officers holding King's commissions and possessing military experience might also be employed with these units. The adjutant and instructional staff should always be drawn from the regular army. Special facilities should be given by the military authorities for the training of officers for appointment to, and promotion in, commissioned ranks, on lines similar to the Indian Defence Force (British section).

(12) The force should be under the Commander-in-Chief, general control being exercised through a Director of Auxiliary Forces at Army headquarters and the local military authorities ; it should take the place of the present Indian Defence Force (Indian section) which being only a temporary war organization disappears. Local Governments and associations should be consulted as regards the recommendations for commissions and promotions among officers.

(13) The form of the commission to be granted in this force is a matter that will require careful consideration. Advanced political opinion, which in this respect is strongly supported by our colleague Sir Krishna Gupta, asks for the grant of King's commissions to the territorial officers ; but Indian officers now holding the Viceroy's commission would undoubtedly resent the grant to these officers of a status which for good reasons is withheld from themselves. We feel that it would be premature to make any definite recommendation at this stage, as so much must depend on the manner in which the experiment develops.

As to how the units should be raised, the Committee say that to start with some 12 units, mounted or dismounted, might be raised in the following areas :—

Bombay, Madras, Bengal with Assam, United Provinces ...	2 each.
Punjab, Bihar, Burma and Central Provinces ...	... 1 each.

In each of the four large provinces one of the units might be a university corps and in the remaining provinces the single unit might be composed partly of university and partly of general companies. The force might be styled the "Indian Territorial Force"

#### Part VII—Indian Marine.

Part VII deals with the Indian Marine. The Committee urge that the operations of the Indian Marine Service Act be extended so as to include of waters west of Suez in order to legalise the disciplinary action taken by the Marine Officers in that part. Further, it would be advantageous to hand over the lighting of the entire

Indian cost, including Persian Gulf, to the service. The Director, Royal Indian Marine, should be a Rear Admiral on active list with the status of a Secretary to the Government of India, with powers to approach the Viceroy. The office of the Director should be in Bombay, while his Deputy should remain at the headquarters of the Government of India. Regular recruitment should be done as in the army, with headquarters at Ratnagiri. Suitable Indians should be given opportunities for education in the higher branches of sea-membership, marine engineering, etc.. The Committee consider it desirable that the Royal Indian Marine should be extended to enable it to undertake policing the Persian Gulf, and they feel confident that the raising of the status of the Marine service would make it fit to meet both peace and war requirements.

#### Part VIII—Indian Army Reserve of Officers.

Part VIII deals with a number of supplementary questions referred to the Committee by the Government of India for advice. Lord Esher and General Du Cane are not, therefore, responsible for these recommendations. The Committee, after examining the existing regulations relating to the Indian Army Reserve of Officers, suggest these regulations should be so recast as to require all officers now under this reserve to relinquish their appointments and new reserve of officers for army in India be formed with a fixed establishment to be calculated for each arm and branch of the service on the basis of probable requirement in the event of war, with the result that this new reserve of officers would be organised with reference to the needs of the Army in India, whereas the existing reserve is for the Indian Army alone. This reserve would as well as provide the officer reinforcement for all the units serving in India, British and Indian alike. The Committee further advise that regimental followers should be enlisted and trained to arms sufficiently.

#### Miscellaneous.

Coming to the military staff clerks, the Committee urged military soldiers should be sparingly used for clerical duties, and that the pay and privileges of clerical assistance in principal branches of headquarters should be the same as those in the Government of India Civil Secretariate.

Provision of an adequate staff of Army Chaplains is required to meet the needs of various denominations.

The Committee further think that the transfer of responsibilities of policing the Northeast Frontier is not justified, and hold that the existing system, under which Burma and Assam military police are controlled by the Local Governments, should not be changed.

**Part IX Concludes the Report. It runs as follows :—**

1. We have now completed the task assigned to us. We have examined the conditions obtaining in the army in India at the close of a war of unprecedented magnitude. Many changes are needed, and they should not be postponed. The army in India is not immune from the general unrest prevailing throughout the world. Liberal and sympathetic treatment at the present time, and the removal of such grievances as we have shown to exist, should go far to secure contentment for the future.

2. In our proposals relating to the higher command and to the organisation of Army Headquarters, our main endeavour has been to relieve the Commander-in-Chief of all work that can equally well be performed by his subordinates. We have followed in many respects the organisation of the Headquarter Staff of an army in the field, since we consider that the work of Army Headquarters in India approximates more nearly to field conditions than is the case at the War Office. We have limited, so far as is consistent with efficient working, the number of officers with direct access to the Commander-in-Chief.

3. We have laid special stress on the necessity for decentralisation in India, and for diminishing the detailed control exercised by the India Office. We hope, that if our proposals are agreed to, there will not only be a considerable decrease in correspondence, but that more rapid decisions will remove such discontent as is now caused by delay.

4. Our principal aim has been to promote the efficiency and contentment of the army in India, and to secure that the Government of India will have at its disposal a well-trained and loyal army, fit to take its share in the defence of the Empire.

5. In submitting our recommendations, we have borne in mind that many of them will entail increased expenditure. We are aware that the present cost of the army in India (1920-21) is already double the pre-war cost. We have therefore been actuated throughout by due regard for economy, but we have not refrained from recommending relatively costly measures, where we are satisfied that these are essential to the contentment and better administration of the army.

6. Our proposals will further increase the annual cost of the army in India. But although the immediate effect of adopting them will be to set up a higher standard of normal expenditure we do not contemplate the probability of this standard being increased, at least for some years to come, above what can be met

from the normal growth of Indian revenues. It is admitted that the first concern of any Government should be defence from external aggression, and the maintenance of internal tranquillity. With the prospect of industrial and agricultural development in India, the revival of trade, and the disappearance of freight difficulties, it is hoped that the revenues of India may expand sufficiently to enable the needs of the army to be satisfied without detriment to other claims.

7. Fresh standards have been set up ; existing services require reorganisation, and new services have to be developed and equipped. There is much lee-way, too, to be made up in improving accommodation in conformity with modern requirements. All these will involve heavy initial expenditure. We venture to suggest that it might be advantageous, from the point of view both of finance and of military administration, to adopt a system somewhat on the following lines :—

- (a) The military authorities should first prepare a programme showing the capital expenditure entailed by measures such as those indicated above.
- (b) The Government of India would thus be in a position to gauge their liabilities, and to decide to what extent they could be met, and over what period the programme should be spread ; and could proceed to obtain the Secretary of State's sanction, where necessary, to the expenditure involved.
- (c) The Government of India might then arrange to give a definite allotment (over and above the sum required for the ordinary yearly upkeep of the army) towards the carrying out of this programme of special expenditure. This allotment should be expressed in terms of a total sum, to be spread over a fixed number of years. Lapses in the yearly allotment should be carried forward into the following year's budget, and remain at the disposal of the military authorities for the carrying out of this programme. Within the amount of the special provision the military authorities should have a free hand in deciding to which of the measures in the programme priority should be given. The accounts relating to the expenditure on these measures should *pro-forma* be maintained separately.
- (d) Subject to these conditions, the military authorities should be required to work strictly to the annual budget provision for the upkeep of the army, except in so far as this may prove impossible owing to unforeseen causes,

such as military operations, or increases in the cost of food-stuffs, etc., occurring in the course of the financial year.

8. The Indian army is the instrument of the Government of India, by whom it is paid and administered, subject to the general control of the Secretary of State for India. We consider therefore that, subject to such control, the Government of India should be the final authority in matters connected with the pay and allowances of officers and men of the Indian Army, wherever they may be serving. We find it necessary to state this view, as we have been informed that the more liberal terms recommended by the Government of India have been rejected in several cases on the ground that all charges on account of officers and men of the Indian Army, serving overseas, are borne by His Majesty's Treasury. This does not appear to us to be a valid reason why terms of service should be prescribed which are at variance with the express recommendations of the Government of India, and which result in the creation of numerous inequalities in the rates of pay of officers serving overseas with formations containing Indian troops, or performing duties analogous to those of corresponding appointments of India.

The Government of India have no voice in deciding the rates of pay of officers and other ranks of the British Army, though increases in these rates materially enhance the cost of the Army in India, which is entirely borne by Indian revenues. Just as the security of India demands the presence of these British troops, so the fresh military obligations devolving on the Empire as a result of the war necessitate the employment overseas of considerable numbers of Indian troops. We consider that the Government of India have the right to claim, as an essential condition of lending their troops for such duties, that they should be the final authority in all questions of pay and allowances, subject always to the control of the Secretary of State for India. This right needs to be explicitly safeguarded.

ESHER.

M. F. O'DWYER.

H. V. COX, Lt.-Gen.

H. HUDSON, Lt.-Gen.

G. FELL.

WEBB, GILLMAN, Maj.-Gen.

UMAR HAYAT.

K. G. GUPTA.

C. M. WAGSTAFF, Colonel,

*Secretary.*

22nd June, 1920.



Minute by  
Sir Krishna G. Gupta.

I have signed the Report, because I believe that the Civil Government of a country must have in the future, as it has had in the past, a potent and effective instrument in the army, for repelling external aggression and maintaining internal peace, and because I agree with my colleagues that our proposals, if adopted, will greatly increase the efficiency of the Army in India. I wish, however, to make a few observations, not by way of dissent, but rather as supplementing what has been said in the Report.

2. It seems to me that the great importance of the momentous declaration of policy made in the announcement of August 1917 has not been sufficiently realised. The British Government have, in clear and unmistakable terms, affirmed their future policy in the Governance of India, *viz.*, increased association of Indians in all branches of the administration, and the introduction of responsible Government with a view to place India on the road to the attainment of Dominion status; and this policy has been reaffirmed in the preamble to the Reforms Statute which was passed last year.

3. From the battle of Plassey in 1757, when the East India Company acquired for England her first footing in India, till 1858, when the Crown assumed the direct Government of India, the principle underlying all measures was the maintenance of British domination and supremacy. In accordance with that principle all power, authority and control, whether civil or military, was concentrated in the hands of the British bureaucracy, and Indians were relegated to very subordinate positions.

4. As a legacy of the unhappy events of 1857, a feeling of distrust now further supervened and permeated the whole policy of army administration. Indians had always been excluded from the King's commission. A new restriction establishing a ratio of two Indians to one European was introduced into the rank and file.

5. Ever since the assumption of the Government by the Crown there has been a steadily widening difference in policy between the civil administration and the army organisation. During the last half-century measures have been taken to extend the Indian element in the higher branches of the civil administration, and in later years, to introduce the principle of representation in the Legislative Councils which culminated in the Statute of last year. On the military side, however, the tendency has been to make the grip closer and tighter, so as not only to keep the Indians out of all superior positions, but also practically to exclude them from the

artillery and various other services, which form essential branches of the army organisation.

6. But now that a solemn declaration of policy has been made, such a distinction must no longer be observed, if that declaration is not to remain a dead letter or a mere pious wish. Distrust must now give place to confidence. It is not enough that the civil administration should be democratised and placed on a representative basis, but Indians should also be eligible for positions of trust and responsibility in the army. The adoption of measures which shall make the Civil Government responsible to the people does not, in itself, make a country autonomous and self-governing, nor can it ever become so, as long as the administration of the army remains in other hands.

7. In the covering letter of 3rd November, 1919, submitting Part 1 of the Report, it has been observed that "we desire also to mention that we have been requested in considering our recommendations to avoid, if possible, framing them in such a manner as may hereafter prove inconsistent with the gradual approach of India towards a Dominion status." I was not a member of the Committee when that letter was written. If I had been, I should have urged that our recommendations should not only be not inconsistent with Indian autonomy, but that they should be so framed as to help India to attain the goal which had been set down for her. I should be failing in my duty to the British Government, and unfaithful to my country, if I did not take this opportunity to express my conviction that we can peacefully attain national unity and full responsible Government only through the sympathetic help and guidance of Great Britain, and that it is therefore to our advantage to remain, so long as we can do so with due self-respect, a component part of the great British Empire. But if we are to achieve this goal of national unity and full responsible Government, it is necessary that the British Government should completely change their angle of vision in regard to military administration in India, and that they should be prepared to share the control of the army with the people of the country.

8. To that end several measures are urgently called for, and I shall briefly touch on them :—

(a) The superior ranks of every branch of the army, including the Artillery, Air Force, Engineers, Transport and Supplies, etc., should be freely open to qualified Indians, and for this purpose the number of King's commissions to be given to Indians should be materially increased every year. A better method of selection than that which obtains at present should also be adopted, so that not merely the scions of wealthy families, but the best qualified candi-

dates, irrespective of birth or creed, will have a chance of competing. As in every other country, so in India, it is the educated middle-classes which must furnish the largest contingent of officers.

(b) Enlistment for the regular army should not be restricted to what are called martial races. The result of the present policy has not been completely satisfactory. It has thrown an unusually heavy military burden upon one province—the Punjab, the evil effects of which are already becoming apparent, it has taken the field of recruitment outside the borders of British India—bringing into the Indian Army men who are not British Indian subjects, such as the Pathans from the North-west Frontier and the Gurkhas from Nepal. The trans-frontier Pathans have been discredited, and no longer form any appreciable part of the Indian Army. The area of recruitment should, therefore, be extended to all parts of India and everything should be done to stimulate the martial and patriotic spirit, which decades of neglect and discouragement have depressed but never wholly extinguished.

(c) No effort should be spared to make the Territorial Force a success and a real adjunct to the regular army.

(d) The practice of officering the Indian Army by regular periodical drafts from Europe is not only very costly but it is harmful to the best interests of India in another way. The British officer leaves the country generally in the prime of life, so that all his ability, knowledge and ripe experience are lost to it.

(e) Steps should be taken in due course to establish in India training and educational institutions for all branches of the army. At present almost all the training of the superior officers is done in England. This is an inconvenient arrangement for India and will become impracticable when more Indians get King's commissions. The best Indians may be prevented by cost alone, among a variety of reasons, from coming to England for training. The admitted success of the Quetta Staff College, and also of the Officers' College at Indore, shows that it is not a difficult matter to arrange for training in India. To start local institutions may appear costly at first but will be cheaper in the end. Besides, India must gradually be made self-supporting in every respect. We have advocated the adoption of this policy (Part II, Section I) as regards supply and munitions. The same reason holds good even with greater force for the application of that principle to the personnel of the army.

(f) The imported article, whether personnel or material, must necessarily be more costly than that which can be obtained at home. The British soldier roughly costs three times as much as the sepoy. The proportion is not so high in the case of the officer, but the fact

that the British officer has to be remunerated adequately tends to raise the scale of pay of the Indian officers and thus adds to the total cost of the army in India. Our proposals must add largely to the army expenditure, which is already high, and the only way of introducing economy without impairing efficiency is gradually to increase the Indian element in the ranks as well as in superior positions.

K. G. GUPTA.

*22nd June, 1920*

## Minute by Sir Umar Hayat Khan

We have in Part III of our Report made certain recommendations on the subject of securing liaison between the civil and military authorities in obtaining information of attempts made by agitators to spread disaffection. I would go further and advocate drastic action against all such agitators, who should be rigorously excluded from all cantonments or districts where their activities may be a cause of possible contamination.

During the sessions of the Army in India Committee I was too busy to go to Sandhurst and make enquiries about the Indian cadets there. I have since learned that their progress, generally speaking, is far from satisfactory. It seems very doubtful whether all will qualify for commissions or will be suitable for commissions, and whether those who do qualify will be willing to serve for more than a short period in the Army. The inference is that some at least of the cadets selected for Sandhurst were not of the right class, as I predicted in a note on the subject written in 1915 and placed before the military authorities.

If this mistake is not rectified in the future, the number of commissions allotted every year to Indians will fall far short of what it was intended to be, and public money, as well as the time of the cadets and their instructors, will be wasted. I would suggest that the shortage, which occurs owing to the selection of candidates of the wrong type, should be made good in the following years, so as to secure the full sanctioned number of Indian officers with King's commissions.

I have already pointed out that the army should not be allowed

external aggression. I desire to emphasise this further, in view of what I have since learnt of the recent happenings in India. They force me to suggest that the reforms in the army should be introduced on more cautious lines. In the last disturbances attempts were made to tamper with the army, as was done in the Mutiny of 1857, but the bulk of the army was away, and, as many of the units had just returned from the war and had seen the might of the British Government, they were not, with very few exceptions, carried away by the intrigues of the revolutionaries.

Just as it is necessary, in the interests of efficiency, to have old and seasoned soldiers amongst the ranks of the Indian Army, it is equally essential to stiffen it by the British element, i. e., by British units, however expensive it may be. The necessity for this I have seen myself in various campaigns, especially in the last war. There have been occasions when it was only the presence of British units which kept the Indian troops staunch. It must not be forgotten that, while British troops are fighting for the integrity of the Empire, the Indian soldiers, gallant though they have often shown themselves, cannot have the same inducement to fight for a distant Raj, and therefore require the stiffening which British troops afford. I hope that reformers with Utopian ideas will not persuade the Government to depart from this sound and established policy. If the revolutionaries succeed in bringing about serious trouble coupled with the mutiny and foreign aggression, before India is fit for self-Government, it will cause a set-back to India which will be detrimental to all classes, particularly those who have any stake in the land.

To recruit from the classes which lack the martial spirit or military traditions would be a great mistake, as they would never stand the strain of war. If the line is broken on the weak spot where such troops are holding it, the other portions, even if held by the best troops, may have to be abandoned, and this may bring disaster in its train. This remark would equally apply to both officers and soldiers recruited from such material, and to enlist them would not only be a waste of time and public money, but would be inadvisable, as already illustrated by an experimental regiment of a certain class during the war.

I would strongly urge that any change in the composition or organisation of the army connected with the Reforms, or any other alteration in the angle of vision, should be only introduced when all these experiments have first been proved successful and have stood the test in every other department of Government.

UMAR, HAYAT.

22nd June 1920.

# Recommendations of the Chemical Services Committee

The Chemical Services Committee, was appointed by the Government of India in October 1919, under the presidentship of Professor J. F. Thorppe. Its report was published in 1920.

The terms of reference to the Committee were :

(1) To consider whether an All India Chemical Service is the best and most suitable method of overcoming the difficulties and deficiencies pointed out by the Indian Industrial Commission. (2) In the event of the Committee approving the principle of an all India Service, to devise terms of recruitment, employment and organisation ; to indicate the extent to which chemists already in Government employ should be included in that service ; and suggest what should be the relations of the proposed organisation with the public and with Departments of the Government of India and local Governments. (3) In particular to frame proposals for the location, scope and organisation of institutions for chemical research.

The following is the summary of recommendations :—

- (1) That a Chemical Service should be constituted.
- (2) That the Service should be called the Indian Chemical Service.
- (3) That the Service should be controlled by a Director General.
- (4) That a Central Imperial Chemical Research Institute should be erected at Dehra Dun under the Director General of the Chemical Services as Director, assisted by a number of Deputy Directors.
- (5) That each Deputy Director should be in charge of a separate Department and that in the first instance there should be four Departments, *a.* Inorganic and Physical Chemistry, *b.* Organic, *c.* Metallurgical Chemistry; *d.* Analytical chemistry.
- (6) That a Provincial Research Institute under the control of the local Government should be erected in each Province near the

chief seats of industry in that Province, and that each Provincial Research Institute should be under a Director of Research.

(7) That the functions of the Central Imperial Institute should be as follows :

To create new industries and to carry out the development of new processes up to the "semi large" scale, or further if necessary, to investigate those problems of a fundamental character arising from the work of the Provincial Institutes, which have been transferred to the Central Institute by the Local Director of Research in consultation with the Director-General. Such problems will be those which have no apparent immediate practical importance but which in the opinion of the Director-General and the Director of Researches are likely to lead to the discovery of fundamental industrial importance affecting the industries of the country generally ; assist in the co-ordination of the work in progress in the Provinces, both by means of personal discussion between the officers of the central and Provincial Institutes during the course of the tours made by the Director-General and the Deputy Directors, and by means of periodical Conferences of Provincial and Imperial officers ; to carry out such analytical work as may be required and to correlate the methods of analysis in general use throughout the country ; to maintain a Bureau of information and Record Office ; and to issue such publications as are considered necessary.

(8) That the functions of the Provincial Research Institutes should be as follows : to maintain close touch with the works of chemists and with the works generally and to work out any problems which may be submitted to them ; to develop and place on an industrial scale new industries which have been previously worked out on the laboratory and "semi large" scale by the Central Imperial Institute ; to carry out such other work as may be necessary to establish and foster new industries peculiar to the Province ; to carry out such analytical work of a chemical character as may be required in the Province, and to erect and control sub-stations in such parts of the Province as the development of industry may require.

(9) That, under 8 above, arrangements should be made by which a firm supplying a problem should have the use of the solution for an agreed period of time prior to its publication.

(10) That members of the Service should be lent to private firms as occasion demanded and should, during the period of their service, be paid an agreed sum by the firms.

(11) That the Research Institutes should not undertake manufacture in competition with private enterprise, but that chemical

industries developed in accordance with 8 above should be handed over to private firms as soon as practicable.

(12) That, whenever necessary, experts should be employed to establish chemical industries based on new process.

(13) That the work of the Central Imperial institute should be controlled by a Board of which the Director-General will be Chairman and which will comprise the Deputy Directors and such other persons as the Government of India may determine.

(14) That the Central Imperial Institute should have no administrative control over the Provincial Research Institute, but that no appointment as Director of Research should be made without consulting the Director-General

(15) That the Director General and Deputy Directors should visit Provincial research Institutes periodically and co-ordinate the work done in each.

(16) That Chemists employed at Provincial Research Institutes should be appointed in the first instance by the local Government in consultation with the Director of research and the Director General.

(17) That Chemists so appointed should be members of the Chemical Service and should be seconded for service under the Provincial Governments and be paid by them.

(18) The Agricultural Chemists should not at present be included in the service.

(19) That the relations of the Chemical Service to the Forest Department, the Ordinance Department, the Chief Inspector of Explosives, Assay Masters, the Medical Stores Department, the Geological Survey and other Governments employing chemists, should be as stated in Chapters V and VII.

(20) That a Ministry of Science should be created as soon as practicable, as stated in Chapter XIII.

(21) That recruitment to the Chemical Service should be as described in Chapter XV.

(22) That the Deputy Director in charge of Analytical Chemistry should co-ordinate the methods of analysis in use throughout India and should act in an advisory capacity to the various Provincial Government analysts who should be attached to each Provincial Research Institute.

(23) The Provincial Government Analysts should be under the control of the Directors of Research and should take over the chemical work now carried out by the Chemical examiner and the Government Test House.

(24) That the question of the connection of the Indian



Institute of Science, Bangalore with the Chemical Service should await proposals from the Council of the institute.

(25) That the location and equipment of the Central Imperial Chemical Research Institute should be as described in Chapter X.

(26) That the location, control and equipment of Provincial Research Institutes should be as described in Chapter XI.

(27) That a Bureau of Information and Record office, a Library, and a Museum should be attached to the Central Imperial Institute and to each Provincial Research Institute.

(28) That the Central Imperial Institute should issue applications as described in paragraph 71.

(29) That a Chemical Survey of India should be carried out at the earliest possible moment.

(30) That recruits for the Chemical Service should be trained in the manner described in Chapter VI.

(31) That members of the Service should be seconded to the Education Department and to University Institutions if required (Chapter VI.)

(32) That the Government of India should give maintenance and equipment grants to students to enable them to undergo the training in chemical researches required for recruitment.

(33) That the position of the Director General and of Directors of Research should be as described in chapter XIV.

(34) That the pay, pensions, leave and allowances of the Chemical Service should be as detailed in Chapter XVI.

(35) That liberal grants, free from the customary accounts, restrictions, should be given for the initiation of the scheme and for the development of industries through the medium of Chemical Research.

## Sir P. C. Roy's Note of Dissent.

The following note of dissent was submitted by Sir P. C. Roy:—

"On principle I am opposed 'ab initio' to the creation of an all-India Chemical Service. At the earlier stage of the foundation of the British Empire, there was no doubt need for the creation of the Indian Civil Service and the Indian Medical Service, and, in the absence of suitable material in India for their recruitment from abroad. Now after an interval of more than 160 years under the enlightened auspices of the British Government, vast progress has been made in the intellectual development of India. We have graduates of local Universities occupying conspicuous and distin-

guished positions as Advocate-Generals, Judges, Jurists, Surgeons Physicians and Scientists, etc. who can hold their own against their confreres in any country in Europe.

"India is 'par excellence' a land of caste, and the "services" have become stereotyped into so many rigid castes. Naturally they are jealous of their vested interests, and are apt to fight tooth and nail against any improvement or innovation which clashes therewith. So glaring has the evil become that, in the considered opinion of India, this unhappy country exists for the "services" and not the "services" for the country. In short the "services" have become an anomaly, nay, a glaring anachronism. A man brought up under the inelastic and hide bound traditions of the "service" unconsciously imbibes all its prejudices and is apt to become overbearing, arrogant, narrow in outlook and limited in his angle of vision. The "service" system will have a demoralising effect as far as the spirit of research is concerned. The men will have gorgeous vistas of pay, prospects and promotion before them, and the pushful and clamorous will try to gain the ear of the Heads of the "service." Under such a 'regime' I am afraid the spirit of research will not be properly fostered.

"It has been urged that while big industries will have trained chemists to carry on researches, the results arrived at by the "service" chemists will be of benefit to the small industries. But the days of small industries are, I am afraid, numbered. In these days of fierce and keen world competition, and of powerful combines and trusts, industries started on a small capital will get short shrift.

"The future industrial development of India no doubt requires a trained hand of chemists. But I doubt very much if the proposed institution of an All-India Chemical Service will best meet the requirements of the case. "Service" men are apt to be easy going and secure of drawing their monthly cheque. They cannot be expected to solve an industrial problem with that degree of zest and enthusiasm and personal interest which a research chemist, attached to an industry, is expected to bring to bear upon the question. Let me cite an instance based upon personal experience. During the exigencies of the recent war, the firm with which I have the honour to be intimately connected—I mean the Bengal Chemical and Pharmaceutical Works—was called upon to undertake, almost at a moment's notice, the manufacture on a large scale of many chemicals, the supply of which from abroad, had been cut off. Some of our chemists proved equal to the occasion in an incredibly short space of time. They not only worked out the process but improvised plant for the manufacture, among other chemicals, of magnesium sulphate, alum, etc., by tons every day. One chemist worked out the process for the manufacture of sodium thiosulphate, which extorted my

admiration. Another, who also rose to the occasion, invented a fire extinguisher, which secured very large orders from the Munitions Department. Now, had the manufacture of any of these on a large scale been left to be worked out by departmental "service" chemists, I think that immense delay would have been involved, that the methods would have been found to be costly and unworkable, and that much precious time would have been lost in correspondence and cross-references. Departmentalism is an arsenal of delay and procrastination. Its methods are apt to run in a groove, and as it has no living touch with any going concern, its ways degenerate into a dull dreary routine mechanically carried out. A research chemist, who is in the "Service" of industry, is put on his mettle. He naturally expects a share in the profits, or some sort of royalty, and he throws his whole heart into the work. Whereas a research chemist who is in the "service of Government is part of a system, which not only makes havoc of originality, but has tendency to chill initiative and resourcefulness. In short, work carried on through the agency of the "service," converts its votaries into lifeless machines. The methods of such a "service" will be dilatory and circumlocutory, especially if the laboratory happens to be situated at a great distance from the firm which wishes to avail itself of its services. In the proposed scheme, no doubt Pioneer Factories are suggested in connection with the laboratory. I believe the immense industrial progress, which has been achieved in England and in Germany, has been due mainly to the close association of chemists with the factories and the works. A large manufacturing concern can at once set up machinery and plant required for the purpose, and can change or improvise them according to the requirements of the case. The phenomenal progress of chemical industry in Germany is due to the fact that the large firms employ as many as 150 or 200 chemists. Some engaged in research work, others in the actual manufacture. I doubt very much if the proposed All-India Chemical Service will be of benefit to the country, commensurate with the heavy outlay to be incurred.

My own view is that the best result would be achieved by improving the teaching of chemistry in the Indian Universities. The want of a suitable and lucrative career has hitherto stood in the way of capturing the brilliant students for the pursuit of chemistry. Law, Medicine and other careers have naturally attracted them. No doubt the proposed chemical service with the recruitment to its cadre in India will give a fillip to the pursuit of chemistry. But the 'service' cannot afford careers to all but only to a limited few. Unless we can open out in India chemical industries, metallurgical operations etc, there is no chance of absorption of a continuous flow of chemists

India is a country of vast potential possibilities with its abundant supply of raw materials, of animal, vegetable and mineral origin, and there is ample scope for research work on these. When the industrial Commission made its recommendations for the creation of a Chemical Service the Reforms Scheme was in a nebulous condition. Now that the bill has been passed and has taken a definite shape with Provincial autonomy as its corner stone and Industry as a "transferred" subject, the *raison detre* for an All-India Chemical Service has almost ceased. Each Province grows on its own lines and according to its own traditions; some provinces are highly advanced intellectually and scientifically, others are again miserably backward and lag behind in the race. If you start chemical research institute in a backward Province it will be something like putting the cart before the horse. Are people sufficiently advanced to profit by or to utilise it. Under the Reforms Scheme, it will be possible for each Government, backed by the Local Parliament to work out its own industrial salvation. That the local genius of the people plays a prominent part is best illustrated by the growth of the mill industry at Bombay. The Parsees and the Bhattias did not await to be awakened to activity by extraneous aid offered by Government Departments.

The plan which naturally commends itself to me is that the different Provincial Universities should be encouraged to strengthen the staff of chemical teachers and to attract brilliant youngmen by the offer of research scholarships. Technological Institutes should be attached to each University, as an adjunct to the chemical and physical Departments. In these, tanning, dyeing ceramics, enamelling, electrical and mechanical engineering, paper making etc., should be taught. If such Technological Institutes are attached to the Universities much duplication of staff, of work and of costly machinery will be obviated.

If you have to depend upon laboratory experiments for the forming of industries, I am afraid we shall have to postpone these to the Greek calends. I know, for instance of a research laboratory in India where soap manufacture was undertaken on a laboratory scale. The product of this experiment has, however, been found to be of such inferior quality that it could not be put on the market. Besides the Bengal Chemical and Pharmaceutical Works referred to above, I happen to be Chairman and Director of three or four other industrial companies that have recently been started, namely the Bengal Pottery Works, the Bengal soap Works and canning and condiment and other works. All these have been started with the help of experts trained locally or in Japan, England, Germany and America. The successful tannery works of Sir Nilratan Sirkar may also be

mentioned in this connection. The late Jamshedji Tata also founded his colossal iron works with the help of technical experts imported from abroad. With the exception of the last named, the experts are all Indians trained abroad as I have said, and a very large number of B. Sc., and M. Scs., are being trained under them, who will in course of time become experts themselves while even in the Tata Iron and Steel works, Indians trained abroad are slowly getting to occupy high posts in the various Departments requiring scientific and metallurgical knowledge.

With the progress in chemical education in India, qualified chemists will be turned out in numbers who will be readily absorbed by the chemical industries which are sure to spring up in course of time.

In conclusion, I desire to state that, although I consider that the days of Government Services are over and that the development of industries by the agency of a Government Service is not the most suitable way of dealing with the problem yet I agree that if a Government Service is constituted, the proposals of the Committee represent the best method of constituting and carrying on such a service. It is for this reason that I have attached my signature to a report with the major portion of which I am in substantial agreement. The essence of the new scheme is the section on recruitment which has been drawn up by the distinguished President himself and fully endorsed by my colleagues. The principle that recruitment for the Indian Services must be made in India is one which I have long upheld hitherto without success. I shall have satisfied if this principle finds acceptance as a result of the Committee's report for it will afford a splendid opportunity to the youth and talent of India and will give a vigorous impetus to the pursuit of my favourite science amongst my country men.

# The Reformed Budget

## Rearrangement of Budget Heads

### For Imperial and Provincial Finance

*Government of India Communique—18th December 1920.*

The introduction of the Reforms will bring about a complete change in the financial relations between the Central and Provincial Governments, which will involve some important change in the general form of accounts and in the prescribed major heads. The changes described below have received the sanction of the Secretary of State. They should be given effect to in the estimates and accounts commencing from the year 1921-22.

1. Provincial Governments have hitherto had no separate revenues of their own, their resources being obtained mainly from a share of divided heads of revenue and from lump assignments from the Imperial revenues. The transactions of the Imperial and Provincial sections have accordingly been combined, but shown under distinct divisions against each major head of revenue and expenditure in the general accounts and estimates. In future, however, definite sources of revenue will be allotted to the Provincial Governments, and there will be a complete separation between the revenues and expenditure of the Central and Provincial Governments, though all moneys received from the resources of provincial revenue will be paid to the public account, of which the Governor-General-in-Council will continue to be the custodian. It will no longer be necessary, therefore, to record together the Imperial and Provincial transactions against each head of account. The accounts and estimates of the Government of India will, in future, embrace the transactions of the Central Government only under each head of account, the transactions of the Provincial Governments appearing in them merely as a net addition to, or withdrawal from, their banking account with the Central Government.

2. At the present, all revenues realised and expenditure incurred in England, which are finally adjusted in the Home accounts, are treated as Imperial, irrespective of whether they pertain to an Imperial, Provincial or divided head. In future, the incidence of revenue and expenditure will be determined by the division of subjects between the Central and Provincial Governments. The Secretary of State and the High Commissioner for India will maintain separate accounts of expenditure incurred in England on behalf of Provincial Governments and the revenue realised, if any, in respect of provincial subjects, and they will furnish to each provincial Government copies of the accounts and estimates relating to provincial transactions. The net expenditure incurred in England, on behalf of

each provincial Government, will be charged to its balance in India at the end of each quarter.

3. To avoid an inflation of the accounts and the resultant erroneous impression as to the incidence of revenue in India, the working expenses of railways are at present deducted from the gross receipts and the net receipts are shown on the revenue side of the accounts. It has been decided that the same procedure shall be followed in the case of the other two commercial services, viz, irrigation works and posts and telegraphs. Accordingly, the working expenses of irrigation works and expenditure on revenue account, in respects of posts and telegraphs, will be shown in the accounts as a deduction from revenue interests, charges relative to the former remaining on the expenditure side.

4. Gain or loss by exchange on the net home expenditure of Provincial Governments as also on the net outlay in England on the commercial services will, in future, be credited or charged, as the case may be, to the Provincial Governments or to the Commercial Department concerned. A gain or loss in respect of the net expenditure of the Central Government not relating to the commercial services will be credited or charged in lump under the revenue or expenditure head "Exchange" in the Central accounts. This head will also record in the provincial accounts the exchange on the net home expenditure of Provincial Governments. For the purpose of these adjustments the exchange will be calculated monthly on the basis of the average of the daily Calcutta Telegraphic transfer rates on London during the month. A list of the major heads of revenue and expenditure, as now revised, is also published. The changes introduced are explained below:—

I. The transfers now made between Imperial and Provincial revenue will be discontinued and they will be substituted therefore by fixed contributions from the Provincial Governments to the Central Government, and also fixed assignments in consideration of the allocation to the provinces, of a share in the revenue realised from taxation on income. There may also occasionally be some miscellaneous adjustments between the Central and Provincial Governments in respect of services required by one to another. The adjusting head "Transfers between Imperial and Provincial revenues," therefore, has been replaced by two new heads "Contributions and assignments to the Central Governments by Provincial Governments" and "Miscellaneous adjustments between the Central and Provincial Governments." The heads will be opened on both the receipt and expenditure sides, the entry under the former head on expenditure side representing the payments by the Provincial Governments and the entry on the receipt side, the credits to the

Central Government. It has also been decided that, with the greater independence of Provincial Finance under the altered conditions, the present rule against inter-Provincial adjustments in Article 1337, Civil Account Code, shall be rescinded.

II. Each Provincial Government will be required in future to set aside from its resources a fixed sum every year for famine Insurance and the appropriation of £ 1 million a year hitherto made from the Imperial revenues for famine relief, and the insurance now disappears, and with it also the head "reduction or avoidance of debt." The sums thus set aside by the Provincial Government will be devoted, in the first instance, to the outlay of the construction of protective works, and, if necessary, on relief measures, the sum not required for these purposes being utilised in building up a famine insurance fund. The balance at the credit of the fund will be regarded as invested with the Central Government, which will pay interest on it, and it will be available for application when necessary to any of the objects mentioned above, and also to the grant of advances to cultivators. In order to give effect to the above scheme for famine insurance by Provincial Governments, the major head "famine relief and insurance," which will come under the miscellaneous section, has been split up into sub-heads (a) famine relief and (b) transfers to famine insurance fund, (c) outlay on relief measures and (d) the transfer to a separate head in the debt section of the accounts of the annual appropriation to the famine insurance fund. As it is desirable that the entire outlay on relief in any year, inclusive of the portion met from the balance at credit of the fund, should be shown as famine expenditure in the Provincial accounts, it is also necessary to open a head on the receipt side to show the transfers from the famine insurance fund to meet the famine outlay, and a new head "transfers from famine insurance fund" has, accordingly, been opened.

III Under the present classification, charges on account of irrigation works are shown under five heads, viz., (1) capital outlay on irrigation works ; not charged to revenue ; (2) outlay on protective works financed from the famine insurance grant ; (3) outlay on protective works financed from outside that grant ; (4) working expenses on productive and protective works (collectively designated major works) including interests on debts ; and (5) minor works and navigation. The receipts are classified under two heads, (1) major works and (2) minor works and navigation. The basis of the existing heads is thus a classification of irrigation works into major and minor works. This distinction is now, however, based as the nomenclature would apply on the size of the works. Major works are works, the funds for the capital expenditure on which are provided wholly or mainly either from borrowings or from the famine



insurance grant, with the additional reservation that they must be susceptible of having reliable capital accounts kept of them, while minor works include all works not classed as major and met wholly from revenue. A distinction based on the source from which capital expenditure is met, cannot, however, be retained under the Reforms Scheme, especially as borrowed funds will not hereafter be required to be applied to productive works only, and it will be permissible to finance from borrowing unproductive as well as productive works. It has, therefore, been decided to replace the distinction between major and minor works by a classification based on the productivity of the works, and the transactions relating to irrigation works will, in future, be exhibited in the accounts as follows : (1) The outlay on the construction of irrigation works not charged to revenue will be shown under a single major head outside the revenue account as at present, but sub-divided into productive and unproductive ; (2) The outlay on the construction of irrigation works charged to revenue will also be shown under a single major head in the revenue section sub-divided into (a) works financed from the famine insurance grants and (b) those financed from ordinary revenues ; (3) The receipts and charges relating to waterways and navigable channels and to embankments and other purely agricultural works will be separated off from those relating to irrigation works proper and shown under a separate head "waterways and embankment" ; (4) For the purpose of showing the maintenance charges, irrigation works will be divided into two classes, viz, those for which capital accounts are kept and those for which such accounts are not kept, and each of these classes will be represented by a distinct major head in the revenue section of the accounts, the latter of which will also include miscellaneous expenditure on surveys of irrigation prospects, &c ; (5) The works for which capital accounts are kept will be further sub-divided into (a) productive (b) protective and (c) unproductive works, direct receipts of working expenses and the portion of land revenue due to irrigation being shown on the receipt side, separately in respect of each of these classes of works and the interest charges on the expenditure side. It has also been decided that for the purpose of determining the productivity of an old work developed by the British Government the capital expended by that Government be regarded as capital at charge, on which interest is chargeable, and that when a work which was expected to be productive proves to be unproductive as defined in the Public Works Department Code or *vice versa*, the necessary transfer of booked outlay between the productive and unproductive classes of works be effected so as to bring the accounts into accord with fact.

IV The outlay on the construction of railways charged to revenue is now shown under three distinct heads, (a) construction of protective railways, (b) construction of railways charged to revenue in addition to that charged under famine insurance and (c) construction of railways charged to provincial revenues. It has been decided to provide a single head in place of these three, the incidence being central or provincial, according to the source from which the funds for construction are provided.

V The present capital outlay on telegraph lines is shown under a minor head subordinate to the major head Post and Telegraphs. Petty outlay on buildings up to Rs. 2,500 is treated as contingent expenditure of the department, and the outlay in excess of this amount is adjusted as a charge of the Public Works Department. The Post and Telegraph Department, is a commercial department and it is desirable that all expenditure incurred on its account should be brought together. A new head has, therefore, been opened on the expenditure side to record all expenditure of a capital nature.

VI Substantial sums are now being set apart from revenue for the purchase and cancellation of the long term loans which have been floated in recent years, while provincial Governments may hereafter devote the borrowed funds to unproductive purposes, provided they establish the sinking funds for the discharge of the unproductive liability. It is desirable, therefore, to introduce a separate head to show the application of these funds and a new head "sinking funds" has been opened under the section relating to interest charges.

VII A new major head "currency" has been opened on both sides to bring together the receipts and charges on the accounts of the Currency Department, which are now scattered over several heads of accounts, and owing to the growing importance of the expenditure involved, separate heads have been provided for expenditure on "audit and civil aviation." The existing head "Scientific and miscellaneous Departments," has been split up into three major heads on the expenditure side viz. "Industries" or "Scientific Departments" and "Miscellaneous Department," and two on the receipt side, viz., "Industries" and "Miscellaneous Departments." Annexure 2 shows the distribution of the existing minor heads between the three expenditure heads. On the receipt side, the transaction relating to the Scientific and the Miscellaneous Department will appear under the head "Miscellaneous Department."

VIII To discriminate the Stamp receipts pertaining to commercial and court-fee stamps, respectively, the head "stamps" has been subdivided into non-judicial and judicial, both on the receipt and expenditure side. The expenditure head "general administration"

will be split up into four sub-heads of Provinces, Legislative bodies, Secretariat and the headquarters establishment, and the Commissioners and the head "Education" into five sub-heads both on the receipt and expenditure side, *viz*, university, secondary, primary, special and the general.

IX The head "provincial rates" on both the receipt and expenditure side has been abolished. No expenditure is incurred under that head at present, while the receipts are insignificant and may suitably be included under land revenue. The charges for refunds and assignments at present follow the incidence of the head of revenue to which they relate, being central or provincial, according as the corresponding revenue head is central or provincial. There is no particular advantage in bringing together all charges on account of refunds or assignments under separate major heads; while the mixing up of charges of varying incidence results in confusion. The expenditure heads "refunds and drawbacks" and "assignments and compensations" have, therefore, been abolished. The charges will be transferred to the respective subject heads "refunds and drawbacks" appearing as deductions from revenue and assignments and compensations and expenditure. The head "civil furlough and absentee allowances" is rarely used in India and so it has been decided that payments of leave allowances in England and to officers on foreign service in India should be charged to the respective subject heads, and the especial head for these allowances has, therefore, been abolished.

X The designations of the existing major heads "income-tax" "courts of law", "jails" and "sanitation" have been altered, respectively, to "taxes on income", "administration of justice", "jails and convict settlements" and "public health."

XI In the section relating to expenditure not charged to revenue, the head "India's financial contribution to the war" has been omitted, and a new head "outlay on waterways" has been opened to show the outlay on the recently sanctioned grand trunk canal in Bengal. Additional heads will be opened as necessary, when Provincial Governments undertake expenditure on objects other than the construction of railways, irrigation works or waterways from borrowed funds.

XII Some changes have also been made in the grouping of the major heads into sections and the order of the arrangement. The section relating to famine relief and insurance disappears. On the other hand a separate section has been constituted for the operations of the Mints and the Currency Department and for the allied transactions relating to exchange.

6. In lettering several sections of the major heads the capital sections of the Commercial Departments have been indicated by

duplication of the letter, which distinguishes the corresponding revenue section. Under the present arrangement, a student of finance and revenue accounts of the Government of India finds considerable difficulty in getting a view of the entire transactions relating to railways and irrigation works, owing to the revenue and capital heads being placed in different sections, while it is necessary that the transactions which affect the revenue surplus or deficit should be kept separate in the accounts from those which do not. It is desirable, at the same time, if possible, to show in one place the entire transactions relating to the commercial services. To attain both ends, the plan of double lettering has been adopted. It will supply a link between the revenue and capital sections of the commercial services, and though in the general accounts and estimates the capital transactions outside the revenue account will appear after all the transactions relating to the revenue account, the subsidiary statements relating to the former will, in the finance and revenue accounts, be shown immediately after those relating to the corresponding revenue heads.

7. The following changes will be made in the debt section of the accounts :

(1) The Provincial Governments have been given the power to raise loans on the security of the revenues allocated to them, and to show the operations connected with such borrowings, new heads will be opened under permanent and temporary debt.

(2) The Provincial Governments may, in future, obtain advances from the Central Government, and in order to show such loans and their repayments a new central ledger head will be opened designated 'loans between Central and provincial Governments' immediately after the provincial advance and loan account.

(3) The deposit head "exchange on remittance accounts," which was discontinued in 1915, will be re-introduced in order that all gains and losses from exchange may first be shown under a single head pending distribution at the end of the year between the revenue capital and debt sections. Transfers to the revenue and capital accounts will be made in accordance with the procedure indicated in paragraph 5 above, and it will be considered in regard to each individual year, whether the amount of exchange remaining undistributed under the deposit head should be kept in suspense or otherwise appropriated.

8. The head "appropriation for reduction or avoidance of debt" will be abolished as there will be no such appropriations in future, and its place will be taken by the head "famine insurance funds" to show the transactions relating to the funds to be maintained by provincial Governments in future. This head will exhibit on the receipt

side the sums out of each year's famine insurance provisions, which are not required for outlay on relief measures or protective works, and on the expenditure side, the transfer of sums at credit of the funds for expenditure on these objects or for the grant of advances to cultivators. In the case of transfers for outlay on relief measures, the corresponding credit will appear under the revenue head "transfers from famine insurance fund." In the case of advances to cultivators, however, the advances and recoveries will be booked in the first instance under the head "loan and advances" by provincial Governments, the net receipts or issues in each year in respect of the portion financed from the famine insurance funds being transferred at the end of the year to the head prescribed to show the transactions of the funds. This head will be closed to balance in the Government books, and the balance at the end of the year in each province will show the amount at the credit of provincial Governments. As the balance revenue as well as advances to cultivators will be brought to account in the debt section, it is not possible to show the application of the fund in a single head or group of heads in the regular accounts, but a *pro forma* account will be maintained for this purpose and included in the finance and revenue accounts.

9. The head "to district boards for railway construction" will be abolished, as a separate head is not required for the small transactions recorded under this head, which can conveniently be included in the general heads for loans by the central and Provincial Governments.

10. The designation of the head "balances of provincial allotments" will be charged to "balances of Provincial Government". It is necessary that the form of the accounts should, in future, permit of the discrimination of expenditure of Provincial Governments between "reserved" and "transferred" subjects, and for the purposes of financial control, that they should also distinguish between voted and non-voted expenditure in the case of expenditure of both the Central and Provincial Governments. The Comptroller and Auditor-General will issue separate instructions to the accounts officers to secure these subjects. The changes in the financial system referred to in paragraphs 2 and 3 above necessitate some alterations in the form of the opening statements in the finance and revenue accounts. These have been settled in consultation with the Secretary of State, and the Comptroller and Auditor-General will give effect to them in the accounts for the year 1921-22. It has also been decided to make a general revision of the detailed statements in these accounts so as to make them more intelligible to the general public and to append notes explaining the figures included in each statement or group of statements. The revision necessary in the statements relating to the

railway account has been settled in consultation with the Secretary of State and will be given effect to in the accounts for the year 1922-21. The more important of these changes are :—

A. distinction hitherto shown in the accounts between the railways worked by Companies which have undergone the process of purchase by the State and those which by their constitution have been State railways worked by companies from the first will be abolished, and

B. that the finance and revenue accounts will in future bring out clearly the actual expenditure incurred each year against the sanction accorded by the Secretary of State on the railway programme.

The revision of the remaining statements in these accounts is under consideration.

# Rules for the Madras Legislative Council

The following rules relating to the provincial Legislative Councils, framed under section 72-A (4) (a) (b) (c) (d) and (f) of the Government of India Act was submitted for the sanction of the Secretary of State in Council in April 1921.

## Composition of Legislative Council.

I. The Legislative Council of the Governor of Madras shall consist of—

- (1) the members of the Executive Council *ex-officio* ;
- (2) ninety-eight elected members ; and
- (3) such number of members nominated by the Governor as, with the addition of the members of the Executive Council, shall amount to twenty-nine ; of the members so nominated—
  - (a) not more than nineteen may be officials, and
  - (b) six shall be persons nominated as follows, namely :—
    - (i) five to represent the following communities, namely, the Paraiyans, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans, Cherumans and Holeyas, and
    - (ii) one to represent the inhabitants of backward tracts.

## Elected Members—Constituencies.

II. The elected members shall be elected by the constituencies specified in Schedule I to these rules, and the number of members to be elected by each constituency, and the number, if any, of seats reserved for non-Brahman members (hereinafter in these rules referred to as reserved seats), shall be as stated herein against that constituency.

## General disqualifications for being elected.

III. (1) A person shall not be eligible for election as a Member of the Council, if such person—

- (a) is not a British subject ; or
- (b) is a female ; or
- (c) is already a member of the Council or of any other Legislative body constituted under the Act ; or
- (d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court ; or

- (e) has been adjudged by a competent court to be of unsound mind ; or
- (f) is under 25 years of age ; or
- (g) is an undischarged insolvent ; or
- (h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part ;

Provided that the local Government may direct that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States, or a subject of any such State or any class of such subjects shall not be ineligible for election by reason only of not being a British subject or British subjects :

Provided further that the disqualification mentioned in clause (d) may be removed by an order of the local Government in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence.

**Special qualifications for election in case of certain constituencies.**

IV. (1) A person shall not be eligible for election as a member of the Council to represent—

- (a) a non-Brahman constituency, if he is a Brahman or if his name is not registered on the electoral roll of the constituency or of another non-Brahman or a non-Muhammadan constituency ; or
- (b) a non-Muhammadan constituency, unless his name is registered on the electoral roll of the constituency or of another non-Muhammadan or a non-Brahman constituency ; or
- (c) any other general constituency, unless his name is registered on the electoral roll of the constituency or of another constituency of the same communal description ; or
- (d) a special constituency, unless his name is registered on the electoral roll of the constituency.

(2) For the purposes of these rules—

- (a) "general constituency" means a non-Brahman, non-Muhammadan, Indian Christian, European or Anglo-Indian constituency ; and
- (b) "special constituency" means a Landholders', University, Planters', or Commerce and Industry constituency.

**Right to Elect.**

**General conditions of registration and disqualifications**

V. Every person shall be entitled to have his name registered



on the electoral roll of any constituency who has the qualifications prescribed for an elector of that constituency and who is not subject to any of the disqualifications hereinafter set out, namely :—

- (a) is not a British subject ; or
- (b) is a female ; or
- (c) has been adjudged by a competent court to be of unsound mind ; or
- (d) is under 21 years of age :

Provided that the local Government may direct that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects, shall not be disqualified for registration by reason only of not being a British subject or British subjects :

Provided further that, if a resolution is passed by the Council recommending that the sex disqualification for registration should be removed either in respect of women generally or in respect of any class of women, the local Government shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex :

Provided further that no person shall be entitled to have his name registered on the electoral roll of more than one general constituency.

#### Qualifications of electors.

VI. (1) The qualification of an elector for a general constituency shall be such qualifications based on—

- (i) community,
- (ii) residence, and
- (iii) (a) occupation of a house, or
- (b) assessment to property-tax, tax on companies or profession tax, or
- (c) assessment to income-tax, or
- [d] receipt of a military pension, or
- [e] the holding of land,

as are specified in Schedule II to these rules in the case of that constituency.

[2] The qualifications of an elector for a special constituency shall be the qualification specified in Schedule II to these rules in the case of that constituency.

#### Electoral roll.

VII. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice speci-

fyng the mode in which and the time within which any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the Revising Authority.

(2) Subject to the provisions of these rules, the local Government shall make regulations providing for—

(1) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll ;

(2) the time at which the roll shall be prepared ;

(3) the publication of the roll in such manner and in such language as to give it wide publicity in the constituency to which it relates ;

(4) the mode in which and the time within which claims and objections may be prepared ;

(5) the constitution and appointment of Revising Authorities to dispose of claims and objections ;

(6) the manner in which notices of claims or objections shall be published ; and

(7) the place, date, and time at which and the manner in which claims or objections shall be heard ;

and may make such regulations to provide for other matters incidental or auxiliary to the preparation and revision of the roll as it may consider desirable. Such regulations may be made as to rolls generally or any class of rolls or any particular roll.

(3) The orders made by the Revising Authority shall be final, and the electoral roll shall be amended in accordance therewith and shall, as so amended, be republished in such manner as the local Government may prescribe.

(4) The electoral roll shall come into force from the date of such republication, and shall continue in force for a period of three years or for such less period as the local Government may, by regulation, prescribe, and after the expiration of such period a fresh roll shall be prepared in accordance with these rules.

(5) If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purposes of that election continue to operate as the electoral roll for the constituency.

#### Right to vote.

VIII. Every person registered on the electoral roll for the time being in force for any constituency shall, while so registered, be entitled to vote at an election of a member or members for that

constituency provided that no person shall vote in more than one general constituency.

#### Nomination of candidates.

IX. (1) Any person may be nominated as a candidate for election in any constituency for which he is eligible for election under these rules.

(2) On or after the date on which a candidate is nominated the candidate shall make in writing and sign a declaration appointing either himself or some other person to be his agent for the election, and no candidate shall be deemed to be duly nominated unless such declaration has been made.

(3) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

#### Election.

X. (1) If the number of candidates, who are duly nominated and who have not withdrawn their candidature before such time as the local Government may fix in this behalf, exceed that of the vacancies, a poll shall be taken :

Provided that, if any seat is reserved and the number among such candidates of non-Brahmans is equal to the number of the reserved seats, the non-Brahman candidate or candidates, as the case may be, shall be declared to be elected, and a poll shall only be taken if any vacancy thereafter remains to be filled.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies, all such candidates shall be declared to be elected, and the Governor shall, by notification in the Fort St. George Gazette, call for fresh nominations for the remaining vacancies and, if any such are received, shall call upon the constituencies concerned to elect members to fill these vacancies.

(4) Votes shall be given by ballot, and in general and Landholders' constituencies, in person. No votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected : provided that no elector shall give more than one vote to any one candidate.

(6) Votes shall be counted by the Returning Officer, and any candidate, or, in the absence of the candidate, a representative duly authorised by him in writing, shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates,

as the case may be, to whom the largest number of votes has been given to be elected :

Provided that, if one or more seats are reserved, the Returning Officer shall first declare to be elected the non-Brahman candidate or candidates, as the case may be, to whom the largest number of votes has been given.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

(9) The Returning Officer shall without delay report the result of the election to the Secretary to the Council, and the name or names of the candidate or candidates elected shall be published in the Fort St. George Gazette.

**Government to make regulations regarding the conduct of elections.**

XI. (1) Subject to the provisions of these rules, the local Government shall make regulations providing for—

- (1) the form and manner in, and the conditions on which nominations may be made, and for the scrutiny of nominations.
- (2) the appointment of a Returning Officer for each constituency and for his powers and duties ;
- (3) in the case of general and Landholders' constituencies the division of the constituencies into polling areas in such manner as to give all electors such reasonable facilities for voting as are practicable in the circumstances, and the appointment of polling stations for these areas ;
- (3) the appointment of officers to preside at polling stations, and the duties of such officers ;
- (5) the checking of voters by reference to the electoral roll ;
- (6) the manner in which votes are to be given, and for special provision in this respect in the case of illiterate voters or voters under physical or other disability ;
- (7) the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors ;
- (8) the scrutiny of votes,
- (9) the safe custody of ballot papers and other election papers, the period for which such papers shall be preserved, and for the inspection and production of such papers ;

and may make such other regulations regarding the conduct of elections as it thinks fit.

(2) In the exercise of the foregoing power, regulations may be made as to elections generally or any class of elections, or in regard to constituencies generally or any class of constituency or any particular constituency.

#### Multiple elections.

XII. (1) If any person is elected by a constituency of the Council and by a constituency of either chamber of the Indian legislature, the election of such person to the council shall be void and the Governor shall call upon the constituency concerned to elect another person.

(2) If any person is elected either by more than one constituency of the Council or by a constituency of the Council and constituency of the Legislative Council of another Governor's province, he shall, by notice in writing signed by him and delivered to the Secretary to the Council or the Secretaries to both Councils, as the case may be, within seven days from the date of the publication of the result of such election in the local official Gazette, choose for which of these constituencies he shall serve, and such choice shall be conclusive.

(3) When any such choice has been made, the Governor shall call upon the constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(4) If the candidate does not make the choice referred to in sub-rule (2) of this rule, the election of such person shall be void and the Governor shall call upon the constituency or constituencies concerned to elect another person or persons.

#### Nominated Members—General disqualifications for nomination.

XIII. (1) No person shall be nominated to the Council who—

*(Same as in Sec. III, above. q. v.)*

#### Term of office of nominated members

XIV. (1) A nominated non-official member shall hold office for the duration of the Council to which he is nominated.

(2) Official members shall hold office for the duration of the Council to which they are nominated or for such shorter period as the Governor may, at the time of nomination, determine.

#### The Taking of Oath.

XV. Every person who is elected or nominated to be a member of the Council shall, before taking his seat, make, at a meeting of the Council, an oath or affirmation of his allegiance to the crown in the following form, namely:—

I, A. B. having been  $\frac{\text{elected}}{\text{nominated}}$  a member of this Council do

solemnly swear (or affirm) that I will be faithful and bear true allegiance to His majesty the King Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

**Effect of subsequent disabilities or failure to take oath.**

XVI. (1) If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clauses (a), (d), (e), (g) and (h) of sub-rule (1) or in sub-rule (2) of rule III or of rule XIII, as the case may be, fails to make the oath or affirmation prescribed by rule XV within such time as the Governor considers reasonable, the Governor shall, by notification in the Fort St. George Gazette, declare his seat to be vacant.

(2) When any such declaration is made, the Governor shall, by notification as aforesaid, call upon the constituency concerned to elect another person within such time as may be prescribed by the notification, or shall nominate another person, as the case may be.

**Casual vacancies.**

XVII. (1) When a vacancy occurs in the case of an elected member by reason of his election being declared void, or by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, the Governor shall, by notification in the Fort St. George Gazette, call upon the constituency concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by the notification.

(2) If a vacancy occurs in the case of a nominated member, the Governor shall nominate to the vacancy a person having necessary qualification under these rules.

**First Constitution of Council.**

XVIII. (1) As soon as conveniently may be after these rules come into force, a Council shall be constituted in accordance with their provisions.

(2) For this purpose the Governor shall, by notification in the Fort St. George Gazette, call upon the constituencies referred to in rule II to elect members in accordance with these rules within such time as may be prescribed by the notification, and shall make such nominations as may be necessary to complete the Council before the date fixed for its first meeting.

(3) If any difficulty arises as to the preparation or publication of the first electoral roll or the holding of the first elections after the commencement of these rules, the local Government may, by order, do any matter or thing which appears to it necessary for the proper preparation or publication of the roll or for the proper holding of the elections.

## Reconstitution of Council—General Elections.

XIX. (1) On the expiration of the duration of a Council or on its dissolution, a general election shall be held in order that a new Council may be constituted.

(2) On such expiration or dissolution, the Governor shall, by notification in the Fort St. George Gazette, call upon the constituencies referred to in rule II, to elect members in accordance with these rules within such time after the date of expiration or dissolution as may be prescribed by such notification.

Provided that, if the Governor thinks fit, such notification may be issued at any time, not being more than three months prior to the date on which the duration of the Council would expire in the ordinary course of events.

(3) Before the day fixed for the first meeting of the Council the governor shall make such nominations as may be necessary to complete the Council.

XX. As soon as may be, after the expiration of the time fixed for the election of members at any election, the names of the members elected for the various constituencies at such election shall be notified in the Fort St. George Gazette.

## SCHEDULE I.

## 1. List of Constituencies.

Name of Constituency.	Class of Constituency.	No. of Members.	Reserved seats.
Madras City „ ...	Non-Muhammadan Urban	4	2
Madura City Municip „ ...	„	1	...
Trichinopoly cum Srirangam „ ...	„	1	...
Cocanada City „ ...	„	1	...
Vizagapatam City „ ...	„	1	...
Tinnevely cum Palamcottah „ ...	Non-Brahman Urban	1	...
Anantpur Dist. „ ...	Non-Muhammadan Rural	2	1
Arcot (North) „ ...	„	3	1
Arcot (South) „ ...	„	3	1
Bellary „ ...	„	2	1
Chingleput „ ...	„	2	1
Chittoor „ ...	„	2	1
Coimbatore „ ...	„	3	1
Cuddapah „ ...	„	2	1
Ganjam „ ...	„	3	1
Godabari „ ...	„	2	1
Guntur „ ...	„	3	1
Kanara (South) Dist. „ ...	„	2	1
Kistna (East) „ ...	„	2	1

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Name of Constituency.	Class of Constituency.	No of members.	Reserved seats.
Kistna (West) „ ...	„	2	1
Kurnool „ ...	„	2	1
Madura District „ ...	„	3	1
Malabar cum Anjengo ...	„	2	1
Nellore „ ...	„	2	1
Ramnad „ ...	„	2	1
Salem „ ...	„	2	1
Tanjore „ ...	„	3	1
Tinnevely District ...	„	2	1
Trichinopoly „ ...	„	2	1
Vizagapatam „ ...	„	2	1
The Nilgiris „ ...	Non-Brahman Urban	1	...
Madras City (Muham- madan).	Muhammadan Urban	1	...
Madura and Trichinopoly cum Srirangam.	„	1	...
Northern Sirkars ...	Muhammadan Rural	1	...
East Coast „ ...	„	1	...
Ceded Districts „ ...	„	1	...
North Arcot cum Chingleput „	„	1	...
Central Districts ...	„	1	...
Tanjore „ ...	„	1	...
Madura cum Trichinopoly	„	1	...
Ramnad cum Tinnevely	„	1	...
Malabar cum Anjengo	„	2	...
South Kanara „ ...	Muhammadan Rural	1	...
Northern Districts ...	Indian Christian	1	...
Central Districts ...	„	1	...
West Coast „ ...	„	1	...
Tanjore and Trichinopoly cum Madura	„	1	...
Ramnad cum Tinnevely	„	1	...
European ...	European	1	...
Anglo-Indian ...	Anglo-Indian	1	...
Northern Landholders, 1	Landholders	1	...
Northern Landholders, 11	„	1	...
North Central Landholders	„	1	...
South Central Landholders	„	1	...
Southern Landholders ..	„	1	...
West Coast Landholders	„	1	...
Madras University ...	University .	1	...
Madras Planters ...	Planting	1	...
Madras Chamber of Commerce.	Commerce and Industry	2	...
Madras Trades Association	„	1	...
Southern India Chamber of Commerce.	„	1	...
Nattukkottai Nagarathas <sup>a</sup> Association.	„	1	...

II. Seats shall be deemed to be reserved seats within the meaning of this Schedule for the purposes of an election, if the number of non-Brahman members



already representing the constituency is less than the number of seats specified as reserved seats, to the extent only of that deficiency :

Provided that, if the number of non-Brahman candidates at the date of the election is less than the number of reserved seats, the number of reserved seats shall be reduced to the extent of that deficiency.

## SCHEDULE II. QUALIFICATIONS OF ELECTORS.

### Definitions.

1. In this Schedule—
  - (a) “an anglo-Indian” means any person being British subject and resident in British India,
  - (i) of European descent in the male line who is not a European, or
  - (ii) of mixed Asiatic and non-Asiatic descent, whose father, grandfather or more remote ancestor in the male line was born in the Continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the united States of America, and who is not a European ;
  - (b) “a European” means any person of European descent in the male line being a British subject and resident in British India, who either was born in or has a domicile in the British Isles, Canada, Newfoundland, Australia, New Zealand or the Union of South Africa, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile ;
  - (c) “member,” in relation to a Chamber of Commerce or a planters, or traders’ association, includes any person entitled to exercise the rights and privileges of membership on behalf of and in the name of any firm, company or corporation registered as a member ;
  - (d) “ previous year” means the financial year preceding that in which the electoral roll for the time being under preparation is first published under these rules ;
  - (e) “zamindar” means the holder of an estate as defined in section 3 (2) of the Madras Estates Land Act, 1908.

### Revenue accounts, Etc. to be conclusive evidence

II. For the purpose of determining any claim to a qualification under this Schedule, the entries in the land revenue accounts and *muchilakas* regarding the amounts of assessment, water rate and rent payable, and the entries in the municipal records regarding the amounts of taxes assessed or paid and the values of houses shall be conclusive evidence of the facts stated therein.

*General Constituencies.*

**Non-Muhammadan and non-Brahman constituencies (urban and rural)**

III. Every person, not being a European, an Anglo-Indian, an Indian Christian or a Muhammadan, shall be qualified as an elector for a non-Muhammadan or non-Brahman constituency, who resided in the constituency for not less than 120 days in the previous year, and has the further qualifications hereinafter prescribed for an elector of the particular constituency.

**Urban—Madras city constituency.**

IV. A person shall be qualified as an elector for a Madras City constituency who—

- (a) was assessed in the previous year to property-tax, or tax on companies or profession-tax ; or
- (b) occupied for not less than six months in the previous year a house in the city, not being a house in any military or police lines, of an annual value of not less than Rs. 60 ; or
- (c) was assessed in the previous year to income-tax ; or
- (d) is a retired or pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces.

*Explanation.*—No person shall be deemed to occupy a house within the meaning of clause (b) unless he is paying or is liable to pay to the owner the rent thereof, or is exempt from the payment of rent by virtue of any office, service or employment ; nor shall more than one person be qualified as an elector in respect of the same house.

V. A person shall be qualified as an elector for an urban constituency other than Madras who—

- (a) was assessed in the previous year to an aggregate amount of not less than Rs. 3 in respect of one or more of the following taxes, namely, property tax, tax on companies, or profession-tax, or
- (b) holds within the constituency one of the qualifications in respect of the holding of land hereinafter prescribed for an elector of a rural constituency ; or
- (c) was assessed in the previous year to income tax ; or
- (d) is a retired or pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces.

VI. A person shall be qualified as an elector for a rural constituency who—

- (a) is registered as a ryotwari pattadar, or as an inamdar, of land the annual rent value of which is not less than Rs. 10, or
- (b) holds on a registered lease under a ryotwari pattadar or an inamdar land, the annual rent value of which is not less than Rs. 10, or

(c) is registered jointly with the proprietor under section 14 of the Malabar Land Registration Act, 1895, as the occupant of land, the annual rent value of which is not less than Rs. 10, or

(d) is a landholder as defined in section 3 (5) of the Madras Estates Land Act, 1908, holding an estate, the annual rent value of which is not less than Rs. 10, or

(e) holds as 'ryot', as defined in section 3 (15) of the Madras Estates Land Act 1908, or as tenant under a landholder, land, the annual rent value of which is not less than Rs 10, or

(f) was in the previous year assessed in a municipality included in the constituency to an aggregate amount of not less than Rs. 3 in respect of one or more of the following taxes, namely, property-tax, tax on companies or profession-tax, or

(g) was assessed in the previous year to income tax, or

(h) is a retired or pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces.

#### Muhammadan constituencies

VII. Every Muhammadan shall be qualified as an elector for a Muhammadan constituency, urban or rural, who resided in the constituency for not less than 120 days in the previous year and has any of the qualifications prescribed in this Schedule for an elector of a Madras City, other urban, or rural constituency as the case may be.

#### Indian Christian constituencies

VIII. Every Indian Christian shall be qualified as an elector for an Indian Christian constituency who resided in the constituency for not less than 120 days in the previous year and has any of the qualifications prescribed for an elector of any urban or rural constituency included in the area of such Indian Christian constituency.

#### European and Anglo-Indian constituencies

IX. Every European shall be qualified as an elector for the European constituency, and every Anglo-Indian shall be qualified as an elector for the Anglo-Indian constituency, if such European or Anglo-Indian resided in the Madras Presidency for not less than 120 days in the previous year and has any of the qualifications prescribed for an elector of any urban or rural constituency.

#### Rental Value

X. For the purposes of this Schedule, the annual rent value of section 64 of the Madras Local Boards Act 1884, with reference to the accounts of the *faski* year preceding the calendar year in which the electoral roll for the time being under preparation is first published under these rules; or, if the accounts for that year are not available, then with reference to the latest accounts that are availa-

ble ; provided that, if in any case it is not possible to calculate the rent value in accordance with the provisions of section 64 of the Madras Local Boards Act, 1884, the Registration Officer shall determine the value for the purpose of this Schedule upon the best information available.

**Joint families.**

XI. If property is held or payments are made jointly by the members of a joint family, the family shall be adopted as the unit for deciding whether under the Schedule the requisite qualification exists ; and if it does exist, the person qualified shall be the member authorised by a majority of the family, or in the case of a Hindu joint family, either a member so authorised or the manager thereof.

Person not qualified in both personal and representative capacity.

XII. A person may be qualified either in his personal capacity or in the capacity of a representative of a joint family, but not in both capacities.

**Fiduciary capacity not recognised.**

XIII. Save as provided in paragraph II of this Schedule, no person shall be qualified as an elector in respect of any property unless he possesses the prescribed property qualification in his own personal right and not in a fiduciary capacity.

**Special constituencies—Landholder constituencies.**

XIV. Every zamindar, janmi or malikanadar shall be qualified as an elector for a Landholders' constituency who resided in the constituency for not less than 120 days in the previous year and who—

- (a) possesses an annual income, calculated as provided in paragraphs 15, 16 and 17 of this Schedule, of not less than Rs. 3,000 derived from an estate as defined in section 3 (2) of the Madras Estates Land Act, 1908, within the Presidency of Madras, or
- (b) is registered as the janmi of land situated within the Presidency of Madras on which the assessment is not less than Rs. 1,500, or
- (c) receives from Government a malikana allowance the annual amount of which is not less than Rs. 3,000.

**Annual income**

XV. For the purposes of paragraph 14 of this Schedule, the annual income of a zamindar shall be taken to be the annual rent value upon which the land-cess is calculated under the Madras Local Boards Act, 1884, excluding the jodi, quit-rent, peshkash or similar charge payable by him to Government.

**Method of calculating annual income and assessment.**

XVI. In calculating annual income and assessment for the purposes of paragraph of this Schedule—

(a) income derived from an estate shall not be reckoned along with income derived from any land other than an estate, but it may be reckoned along with a malikana allowance ;

(b) in no case shall income derived from a portion of an estate which is not separately registered in the office of a Collector be taken into account ;

(c) assessments paid on more than one parcel of land may be reckoned together : provided that, in the case of land referred to in paragraphs 19 and 20 of this Schedule, the assessment paid thereon shall not be added to any assessment paid on other land unless the holder of the latter has been nominated or is entitled under those paragraphs to represent the joint holders or family in respect of the former land.

**Basis of determination of annual rent value and assessment.**

XVII. For the purposes of paragraph 14 of this Schedule, the annual rent value and assessment shall be determined with reference to the accounts of the *faski* year preceding the calendar year in which the electoral roll for the time being under preparation is first published under these rules or, if the accounts for that year are not available, with reference to the latest accounts that are available : provided that, if in any case it is not possible to calculate the rent value in accordance with the provisions of paragraph 16 of this Schedule, the Collector shall determine the value upon the best information available.

**Entry of name in and register.**

XVIII. Save as expressly provided in this Schedule, no person claiming to be qualified as an elector for a Landholders' constituency on account of the possession of income derived from land for which a public register is kept, shall be entitled to have such income taken into account in determining his eligibility, unless the land from which the income is derived stands registered in such register in name.

XIX. If several persons are registered as joint holders of land, a majority of the adult male persons so registered may nominate in writing any one of themselves who is not disqualified to be their representative for voting purposes, and the name of such representative alone shall be entered in the electoral roll and, if such nomination is not made, no entry shall be made in the roll in respect of such land.

**Explanation.**—Land registered under section 14 of the Malabar Land Registration Act, 1895 in the joint names of the registered

proprietor and another person, is not land registered in the names of joint holders within the meaning of this paragraph.

Where property is entered in name of a woman.

XX. When the property of a tarwad or similar joint family under the Marumakkattayam law is registered in the name of a woman and would, but for the disqualification of sex, qualify the registered holder as an elector, the senior male member of the family who is not disqualified, or any member not disqualified who is nominated in writing by a majority of the adult male members, shall be qualified as the representative of the family.

XXI. Save as hereinbefore provided, no person shall be qualified as an elector unless he possesses the prescribed property qualification in his own personal right and not in a fiduciary capacity.

XXII. A person who is nominated or qualified, under paragraph 19 or paragraph 20 of this Schedule, to represent a group of joint owners or a joint family, and who is himself possessed of a separate property qualification as an elector, may elect whether to be entered in the electoral roll in his representative or separate capacity, but he shall be entered in one such capacity only.

*The University constituency.*

XXIII. A person shall be qualified as an elector for the Madras University constituency if he has a place of residence in India and is a member of the State, or an Honorary Fellow, or a graduate of over seven years' standing of the University of Madras.

*The Planters' constituency.*

XXIV. A person shall be qualified as an elector for the Madras Planters' constituency if he is a member of one of the associations affiliated to the United Planters' Association of Southern India.

*The Madras Chamber of Commerce and Industry constituency.*

XXV. A person shall be qualified as an elector for the Madras Chamber of Commerce constituency if he is a member of the Madras Chamber of Commerce or of a Chamber affiliated to it.

*Other Commerce constituencies.*

XXVI. Members of the Madras Trades Association, the Southern India Chamber of Commerce and the Nattukkottai Nagarathars' Association shall be qualified respectively as electors for the constituency comprising the Chamber or Association of which they are members.

# Rules for the Bombay Legislative Council

## Composition of Legislative Council

1. The Legislative Council of the Governor of Bombay shall consist of—

- (1) the members of the Executive Council *ex-officio* ;
- (2) eighty-six elected members ; and
- (3) such number of members nominated by the Governor as with the addition of the members of the Executive Council, shall amount to twenty five ; of the members so nominated—
  - (a) not more than sixteen may be officials, and
  - (b) five shall be non-official persons nominated to represent respectively the following class or interests, namely :
    - (i) the Anglo-Indian community ;
    - (ii) the Indian Christian community ;
    - (iii) the labouring class ;
    - (iv) classes which, in the opinion of the Governor, are depressed classes ; and
    - (v) the cotton trade.

## Elected Member.—Constituencies

II. The elected members shall be elected by the constituencies specified in Schedule I to these rules, and the number of members to be elected by each constituency, and the number, if any of seats reserved for Maharatta members (hereinafter in these rules referred to as reserved seats), shall be as stated therein against that constituency.

(*Sec. III, General disqualification—same as on pp. 186/7*)

## Special qualification for election in case of certain Constituencies

IV. (1) A person shall not be eligible for election as a Member of the Council to represent—

(a) a Bombay City constituency, unless his name is registered on the electoral roll of the constituency or on the electoral roll of a Bombay City constituency of the same communal description ; or

(b) a Mahratta constituency, unless he is a Mahratta and unless his name is registered on the electoral roll of the constituency and he has resided in the constituency for a period of six months prior

called upon to elect a number of members : provided that a candidate eligible for election in any such constituency shall be eligible for election in another Mahratta constituency or in a non-Muhammadan constituency, if the whole or part of such Mahratta or non-Muhammadan constituency is included in the same district as any part of the constituency in which he has so resided ; or

(c) a non-Muhammadan constituency, unless his name is registered on the electoral roll of the constituency and he has resided in the constituency for a period of six months prior to the 1st day of January in the year in which the constituency is called upon to elect a number of members : provided that a candidate eligible for election in any such constituency shall be eligible for election in another non-Muhammadan or, if he is a Mahratta, in a Mahratta constituency if the whole or part of such non-Muhammadan or Mahratta constituency is included in the same district as any part of the constituency in which he has so resided ; or

(d) any other general constituency, unless his name is registered on the electoral roll of the constituency and he has resided in the constituency for a period of six months prior to the 1st day of January in the year in which the constituency is called upon to elect a number of members : provided that a candidate eligible for election in any such constituency shall be eligible for election in a constituency of the same communal description if the whole or part of either constituency is included in the same district ; or

(e) *See p. 187, IV (d)*

(2) For the purpose of these rules—

(a) “general constituency” means a Mahratta, non-Muhammadan, Muhammadan or European constituency ; and

(b) “Special constituency means a Landholders’ University, or Commerce & Industry constituency.

*For the rest of the Rules see pp. 187 to 193 and, read “Bombay” and “local official Gazette” for “Madras” and “Fort St. George Gazette,” respectively, except in the following Sections :—*

*In Sec. VI (1) (iii) a, b, c, d, e, read :—*

(b) assessment to income-tax, or

(c) receipt of a military pension, or

(d) the holding of land, or

(e) receipt of wages,

*In Sec X, read a proviso to (1) :—*

Provided that, if a seat is reserved and of such candidates one only is a Mahratta, that candidate shall be declared to be elected, and a poll shall only be taken if any vacancy thereafter remains to be filled.

*And for Sec. X. (5) read the following:—*



(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected, and shall be entitled to accumulate all of them upon one candidate or to distribute them amongst the candidates as he pleases.

*And to Sec. X (7) read the following proviso :—*

Provided that, if a seat is reserved, the Returning Officer shall first declare to be elected the Mahratta candidate to whom the largest number of votes has been given.

## SCHEDULE I.

### 1.—List of Constituencies.

Name of Constituency.	Class of Constituency.	Number of members.	Reserved seats
Bombay City (North) ...	Non-Muhammadian Urban.	3	1
Bombay City (South) ...	"	3	1
Karachi " ...	"	1	...
Ahmedabad City ...	"	1	...
Surat " ...	"	1	...
Sholapur " ...	"	1	...
Poona " ...	"	1	...
Ahmedabad District ...	Non-Muhammadian Rural	2	...
Broach District ...	"	1	...
Kaira District ...	"	2	...
Panch Mahals District ...	"	1	...
Surat " ...	"	2	...
Thana " ...	"	2	1
Ahmednagar " ...	"	2	1
East Khandesh " ...	"	3	...
Nasik " ...	"	2	1
Poona " ...	"	2	1
Satara " ...	"	3	...
Belgaum " ...	"	2	...
Bijapur " ...	"	1	...
Dharwar " ...	"	2	...
Kanara " ...	"	1	...
Ratnagiri " ...	"	2	1
Eastern Sind " ...	"	1	...
Western Sind " ...	"	1	...
*Sholapur " ...	"	1	...
*Kolaba " ...	"	1	...
*West Khandesh " ...	"	1	...
Bombay City (Muhammadian).	Muhammadian Urban	2	...
Karachi City (Muhammadian).	"	1	...

\* Note.—The Sholapur District, the Kolaba District, and the West Khandesh District constituencies elect a Mahratta member to the first, second and third Councils respectively under part IV of this Schedule and to succeeding Councils in the same rotation.

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Name of Constituency.	Class of Constituency.	Number of members.	Reserved seats.
Ahmedabad and Surat cities (Muhammadan).	Muhammadan Urban	1	...
Poona and Sholapur cities (Muhammadan).	"	1	...
The Northern Division (Muhammadan).	Muhammadan Rural	3	...
The Central Division (Muhammadan).	"	3	...
The Southern Division (Muhammadan).	"	3	...
Hyderabad District (Muhammadan).	"	2	...
Karachi District (Muhammadan).	"	2	...
Larkana District (Muhammadan).	"	3	...
Sukkur District [Muhammadan].	"	2	...
Thar and Parkar [Muhammadan].	"	2	...
Nawabshah Dist [Muhammadan].	"	1	...
Upper Sind Frontier District [Muhammadan].	"	1	...
Bombay City [European]	European	1	...
" Presidency [European]	"	1	...
Deccan Sardars	Landholders	1	...
Gujrat Sardars	"	1	...
Jaligirdars and Zamindars [Sind].	"	1	...
Bombay University ...	University	1	...
Bombay Chamber of Commerce	Commerce and Industry	2	...
Karachi Chamber of Commerce.	"	1	...
Bombay Trades Association.	"	1	...
Bombay Millowners' Association.	"	1	...
Ahmedabad Millowners' Association.	"	1	...
Indian Merchants' Chamber and Bureau.	"	1	...

II. In interpreting this Schedule references to a district, municipal district or cantonment shall be deemed to be references to the district, municipal district or cantonment as constituted for the time being under the Bombay Land Revenue Code, 1879, the Bombay District Municipal Act, 1901, and the Cantonments Act, 1910, respectively.

III. No seat shall be deemed to be a reserved seat within the meaning of this Schedule for the purpose of any election if the constituency is already represented by a Mahratta member or if there is no Mahratta candidate.

IV. The Sholapur District constituency shall, for the purposes of the general election to the first Council and of all bye-elections, occurring during

the continuance of that Council, be a Mahratta constituency, and the Kolaba District constituency shall be a Mahratta constituency for the purposes of the second Council and of all bye-elections occurring during the continuance of that Council, and the West Khandesh District constituency shall be a Mahratta constituency for the purposes of the third Council and of all bye-elections occurring during the continuance of the third Council, and thereafter those constituencies shall, in the like rotation, be Mahratta constituencies for the purposes of elections to succeeding Councils.

## SCHEDULE II.

### Qualifications of Electors.

#### Definitions.

I. In this Schedule—

(a) "a European " means—

(b) "holder " means a person lawfully in possession of land whether such possession is actual or not ;

(c) "publication of the electoral roll" means the first publication under these rules of the electoral roll for the time being under preparation;

(d) "tenant" means a lessee whether holding under an instrument or under an oral agreement, and includes a mortgagee of a tenant's rights with possession.

#### *General Constituencies.*

II. In a Mahratta or non-Muhammadan urban constituency every person shall be qualified as an elector who is neither a Muhammadan nor a European and who, on the 1st day of April next preceding the date of publication of the electoral roll, had a place of residence within the constituency or, in the case of a Bombay City constituency, within the limits of the said city or within the limits of the taluka of Salsette, or, in the case of any other urban constituency, within two miles of the boundary thereof, and who—

(a) on the 1st day of April aforesaid occupied, as owner or tenant, in such constituency, a house or building, or part of a house or building separately occupied, as a dwelling or for the purpose of any trade, business or profession,—

(i) of which the annual rental value was not less than Rs. 120 in the case of the Bombay City constituency, and not less than Rs. 60 in the case of the Karachi City constituency, or

(ii) in any other urban constituency, where any tax is based on the annual rental value of houses or buildings, of which the annual rental value was not less than Rs. 36; or, if no tax so based is levied, of which the capital value was not less than Rs. 1, 500 ; or

(b) was assessed to income-tax in the financial year preceding

that in which the publication of the electoral roll takes place ; or

(c) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces ; or

(d) in the case of a Bombay City constituency, is in receipt of a monthly wages of not less than Rs. 40 on account of employment as a manual worker in a textile factory which is situated within the City of Bombay and which is a factory as defined in the Indian Factories Act, 1911; or

(e) on the 1st day of January next preceding the date of publication of the electoral roll, held a qualification in respect of land within the constituency which, if held within the nearest rural constituency, would qualify him as an elector for such constituency.

III. In a Mahratta or non-Muhammadan rural constituency every person shall be qualified as an elector who is neither a Muhammadan nor a European and who, on the 1st day of January next preceding the date of publication of the electoral roll, had a place of residence within the constituency or within a contiguous constituency of the same communal description, and who—

(a) (i) in the case of any constituency in Sind, on the 1st day of January aforesaid, held in his own right or occupied as a permanent tenant or as a lessee from Government alienated or unalienated land in such constituency on which, in any one of the five revenue years preceding the publication of the electoral roll, an assessment of not less than Rs. 16 land revenue in the Upper Sind Frontier constituency and of not less than Rs. 32 land revenue in any other constituency has been paid or would have been paid if the land had not been alienated, or

(ii) in the case of any other constituency, on the 1st day of January aforesaid, held in his own right or occupied as a tenant in such constituency alienated or unalienated land assessed at or of the assessable value of not less than Rs. 16 land revenue in the Panch Mahals or Ratnagiri districts and not less than Rs. 32 land revenue elsewhere ; or

(b) on the 1st day of January aforesaid was the alienee of the right of Government to the payment of rent or land revenue, amounting to Rs. 16 in the Panch Mahals or Ratnagiri Districts and Rs. 32 elsewhere, leviable in respect of land so alienated and situate within the constituency, or was a khot or a sharer in a khoti village in the constituency or a sharer in a bhagdari or narvadary village in the constituency, responsible for the payment of Rs. 16 land revenue in the Panch Mahals or Ratnagiri Districts and Rs. 32 land revenue elsewhere; or

(c) was assessed to income-tax in the financial year preceding that in which the publication of the electoral roll takes place; or

(d) is a retired and pensioned officer (whether commissioned or or non-commissioned) of His Majesty's regular forces ; or

(e) in any municipal district, cantonment or notified area in the constituency, on the 1st day of April next preceding the date of publication of the electoral roll, occupied as owner or tenant a house or building, or part of a house or building separately occupied, as a dwelling or for the purpose of any trade, business or profession,—

(i) of which the annual rental value was not less than Rs. 36 in a constituency in Sind ; or

(ii) in any other constituency, if in such municipal district, cantonment or notified area, tax is based on the annual rental value of houses or buildings, of which the annual value was not less than Rs. 24 in the Panch Mahals or Ratnagiri District and not less than Rs. 36 elsewhere; or, if no tax so based is levied, of which the capital value was not less than Rs. 1, 000 in the Panch Mahals and Ratnagiri Districts and not less than Rs. 1, 500 elsewhere.

*Explanation.*—For the purpose of the residential qualification required by this paragraph, Mahratta and non-Muhammadan constituencies shall be deemed to be constituencies of the same communal description.

#### Muhammadan Urban Constituencies

IV. In a Muhammadan urban constituency every person shall be qualified as an elector who is a Muhammadan and save in that respect has the qualification prescribed for an elector of non-Muhammadan urban constituency.

#### Muhammadan Rural Constituencies.

V. In a Muhammadan rural constituency every person shall be qualified as an elector who is a Muhammadan and save in that respect has the qualification prescribed for an elector of a non-Muhammadan rural constituency.

#### European constituencies

VI. (1) In the Bombay City (European) constituency every person shall be qualified as an elector who is a European and save in that respect has the qualification prescribed for an elector of a Bombay City non-Muhammadan constituency.

(2) In the presidency (European) constituency every person shall be qualified as an elector who is a European and who save in that respect has the qualification prescribed for an elector of a non-Muhammadan urban, other than a Bombay City, constituency or of non-Muhammadan rural constituency according as he has a place of residence within a non-Muhammadan urban or rural constituency.

*Special Constituencies*

VII. (1) In the constituency of the Deccan Sardars and Inamdars a person shall be qualified as an elector whose name is entered in the list for the time being in force under the Resolution of the Government of Bombay in the Political Department, No. 2363, dated the 23rd July, 1867, or who, on the 1st day of January next preceding the date of publication of the electoral roll, was the sole alienee of the right of Government to the payment of rent or land revenue in respect of an entire village situate within the constituency.

(2) In the constituency of the Gujarat Sardars and Inamdars a person shall be qualified as an elector whose name is entered in the list for the time being in force under the Resolution of the Government of Bombay in the Political Department, No. 6265, dated the 21st September, 1909, or who, on the 1st day of January next preceding the date of publication of the electoral roll, was the sole alienee of the right of Government to the payment of rent or land revenue in respect of an entire village situate within the constituency.

(3) In the constituency of the Jagirdars and Zamindars (Sind) a person shall be qualified as an elector who is a Jagirdar of the first or second class in Sind, or who in each of three revenue years preceding the publication of the electoral roll has paid not less than Rs. 1, 000 land revenue on land situate in any district in sind.

*University Constituency*

VIII. In the constituency of the Bombay University a person shall be qualified as an elector who, on the 1st day of April next preceding the date of publication of the electoral roll, had a place of residence in the Bombay Presidency (excluding Aden) and was a member of the Senate or an honorary Fellow of the University or a graduate of the University of seven years' standing.

*Commerce and industry constituencies*

IX. In a Commerce and Industry constituency a person shall be qualified as an elector if his name is entered in the list of members, for the time being in force, of the association forming such constituency.

*Miscellaneous—Joint families*

X. Where any property is held or occupied or payment is made or received jointly by the members of a joint family, the family shall, if the majority of the members thereof are not subject to any of the disqualification specified in rule V of these rules, be adopted as a unit for deciding whether under the provisions of this Schedule the requisite qualification exist ; and if it does exist, the manager of the family only shall be qualified as an elector in respect of such property or payment.

## Trustees

XI. No person holding or occupying any property or making or receiving any payment in a fiduciary capacity shall be qualified as an elector for any constituency in respect of such property or payment.

## Rental and capital value

XII. The value of any machinery, furniture or equipment contained in, or situate upon, any house or building shall not be included in estimating the rental or capital value of such house or building.

## Service Tenure

XIII. A person who occupies any dwelling house, other than a military or police barrack, by virtue of any office, service or employment shall, if the dwelling-house is not inhabited by the person in whose service he is in such office, service or employment, be deemed to occupy the dwelling house as a tenant.

## Unassessed land

XIV. The average rate of assessment on assessed land in a village or, if there is no such land in the village, the average rate of assessment on assessed land in the nearest village containing such land shall be taken as the rate for calculating the assessable value of unassessed land in such village.

## Revenue Etc, record conclusive proof.

XV. For the purpose of deciding any claim to be registered in respect of any assessment, payment of rent or land revenue, rental value, capital value, or payment of income-tax, an entry in any revenue record or in the record of any municipal district or cantonment or notified area or in the records of the Municipal Corporation of the City of Bombay, stating the amount of such assessment, payment or value, shall be conclusive proof of the amount of such assessment, payment or value.

# Rules for the Bengal Legislative Council

## Composition of Legislative Council.

1. The Legislative Council of the Governor of Bengal shall consist of—

- (1) the members of the Executive Council *ex-officio* ;
- (2) one hundred and fifteen elected members ;

(3) such number of members nominated by the Governor as with the addition of the members of the Executive Council, shall amount to twenty-four ; of the members so nominated—

(a) not more than sixteen may be officials, and

(b) two shall be persons nominated to represent respectively the following classes or interests, namely :—

(i) the Indian Christian community, and

(ii) classes which, in the opinion of the Governor, are depressed classes.

#### Elected Members' constituencies

II. The elected members shall be elected by the constituencies specified in Schedule I to these rules, and the number of members to be elected by each constituency shall be as stated therein against that constituency.

III. (*General disqualifications same as on pp. 186/7*)

#### Special qualification for election in case of certain constituencies

IV. A person shall not be eligible for election as a Member of the Council to represent—

(a) a non-Muhammadan, Muhammadan, European or Anglo-Indian constituency (which constituencies are hereinafter in these rules referred to as general constituencies) unless his name is registered on the electoral roll of the constituency or of another general constituency of the same communal description ; or

(b) a Landholders, University, Commerce and Industry, or Labour constituency (which constituencies are hereinafter in these rules referred to as special constituencies) unless his name is entered on the electoral roll of the constituency.

V. (*Right to Elect—same as on pp. 187*)

#### Qualification of Electors

VI. (1) The qualifications of an elector for a general constituency shall be such qualifications based on—

(i) community,

(ii) residence, and

(iii) (a) occupation of a building, or

(b) payment of municipal or cantonment taxes or fees, or

(c) payment of cesses under the Cess Act, 1880, or

(d) payment of chaukidari tax or union rate under the Village-Chaukidari Act, 1870, or the Bengal Village Self-Government Act, 1919, or

(e) payment of income-tax, or

(f) receipt of a military pension, or

(g) the holding of land,



as are specified in Schedule II to these rules in the case of that constituency.

(2) Same as VI (2), p. 188.

[The other rules are the same as given on pp. 188-193]

## SCHEDULE I.

### List of Constituencies.

Name of Constituency.	Class of Constituency.	Number of Members.
Calcutta (Non-Muhammadian).	Non-Muhammadian Urban	6
Hoogly Municipal do	do	1
Howrah Municipal do	do	1
Barrackpore „ do	do	1
24 Parganas „ do	do	1
Dacca City do	do	1
Burdwan do	Non-Muhammadian Rural	2
Birbhum do	do	1
Bankura do	do	2
Midnapore, A. do	do	1
Midnapore, B. do	do	2
Hoogly cum Howrah Rural do	do	1
24-Parganas Rural A. do	do	1
24-Parganas „ B. do	do	1
24-Parganas „ C. do	do	1
Nadia do	do	1
Murshidabad do	do	1
Jessore do	do	2
Khulna do	do	1
Dacca „ do	do	1
Mymensingh A. do	do	1
Mymensingh B. do	do	1
Faridpur do	do	2
Bakarganj A. do	do	1
Bakarganj B. do	do	1
Chittagong do	do	1
Tippera do	do	1
Noakbali do	do	1
Rajshahi do	do	1
Dinajpur do	do	1
Rangpur do	do	1
Bogra cum Pabna do	do	1
Malda do	do	1
Jalpaiguri do	do	1

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Name of Constituency.	Class of Constituency.	Number of Members.
Calcutta (Muhammadan)	Muhammadan Urban	2
Hoogly cum Howrah		
Municipal do	do	1
Barrackpore Municipal do	do	1
24-Parganas do do	do	1
Dacca City do	do	1
Burdwan Division		
North (Muhammadan)	Muhammadan Rural	1
Burdwan Division		
South do	do	1
24-Parganas Rural do	do	1
Nadia do	do	1
Murshidabad do	do	1
Jessore do	do	2
Khulna do	do	1
Dacca Rural do	do	1
Mymensingh A. do	do	2
Mymensingh B. do	do	2
Faridpur do	do	2
Bakarganj A. do	do	1
Bakarganj B. do	do	1
Bakarganj C. do	do	1
Chittagong do	Muhammadan Rural	2
Tippera do	do	2
Noakali do	do	2
Rajshahi do	do	2
Dinajpur do	do	1
Rangpur do	do	2
Bogra do	do	1
Pabna do	do	1
Mulda cum Jalpaiguri do	do	1
Presidency and Burdwan (European)	European	4
Dacca and Chittagong (European)	do	1
Rajshahi (European)	do	1
Anglo-Indian	Anglo-Indian	3
Burdwan Landholders	Landholders	1
Presidency Landholders	do	1
Dacca Landholders	do	1
Chittagong Landholders	do	1
Rajshahi Landholders	do	1
Calcutta University	University	1
Bengal Chamber of Commerce	Commerce and Industry	6
Indian Jute Mills Association	do	2
Indian Tea Association	do	1
Indian Mining Association	do	1
Calcutta Trades Association	do	2
Bengal National Chamber of Commerce	do	1
Marwari Association	do	1
Mahajan Sabha	do	1
24-Parganas Wage-earners	Labour	1
Calcutta Wage-earners	do	1

## SCHEDULE II:

### QUALIFICATION OF ELECTORS.

#### Definitions.

I. In this Schedule—

(a) "an anglo-Indian" means any person being a British subject and resident in British India,

(i) of European descent in the male line who is not a European, or

(ii) of mixed Asiatic and non-Asiatic descent whose father, grand-father or more remote ancestor in the male line was born in the Continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa, or the United States of America, and who is not a European ;

(b) "a European" means any person of European descent in the male line being a British subject and resident in British India who either was born in or has a domicile in the British Isles, Canada, Newfoundland, Australia, New Zealand or the Union of South Africa, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile :

(c) "previous year" means the financial year preceding that in which the electoral roll for the time being under preparation is first published under these rules.

#### *General Constituencies.*

#### Qualifications based on community.

II. A person shall be qualified as an elector—

(a) for a non-Muhammadian constituency who is neither a Muhammadian nor a European nor an Anglo-Indian ; and

(b) for a Muhammadian, European or Anglo-Indian constituency according as he is a Muhammadian, European or Anglo-Indian :

Provided that such person possesses the further qualifications hereinafter prescribed for an elector of the particular constituency.

#### Urban and rural constituencies other than Calcutta constituencies.

III. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified as an elector for an urban or rural constituency, other than a Calcutta constituency, who has a place of residence in the constituency and who—

(1) has paid, during and in respect of the previous year or, as the case may be, during and in respect of the Bengali year preceding that in which the electoral roll for the time being under preparation is first published under these rules,—

(a) in the municipalities of Howrah or Cossipore-Chitpur, municipal taxes or fees of not less than Rs. 3, or in any other municipal or cantonment area, municipal or cantonment taxes or fees of not less than Rs. 1-8-0, or,

(b) road and public works cesses under the Cess Act, 1880, of not less than Re. 1; or,

(c) chaukidari tax under the Village Chaukidari Act, 1870, or union rate under the Bengal Village Self-Government Act, 1919, of not less than Rs. 2, or,

(d) income-tax; or,

(2) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces.

#### Calcutta constituencies

IV. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified as an elector for a Calcutta constituency who has a place of residence in Calcutta as defined in section 3 (7) of the Calcutta Municipal Act, 1899, and who—

(1) during the previous year—

(i) was entered in the Municipal assessment book as—

(a) the owner and occupier of some land or building in Calcutta separately numbered and valued for assessment purposes at not less than Rs. 150 per annum, or

(b) the owner or occupier of some land or building in Calcutta separately numbered and valued for assessment purposes at not less than Rs. 300 per annum: provided that no person shall be qualified in virtue of any of the above qualifications unless the owner and occupier's share or the owner's or occupier's share, as the case may be, of the consolidated rate on such land or building for the aforesaid year has been paid during that year, or,

(ii) has paid in respect of that year on his sole account and in his own name not less than Rs. 24 either in respect of the consolidated rate levied under Chapter XII, or in respect of the taxes levied under Chapter XIII, or in respect of the taxes levied under Chapter XIV, of the Calcutta Municipal Act, 1899: provided that if any payment has been made in respect of the consolidated rate, a person shall be qualified only if his name is entered in the municipal assessment book in respect of the payment; or

(iii) has paid income-tax in respect of that year; or

(2) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces.

#### European constituencies.

V. A person shall be qualified as an elector for a European constituency who is a European and has a place of residence in the

constituency and has any of the qualifications prescribed for an elector of any urban or rural constituency included in the area of such European constituency.

**The Anglo-Indian constituency.**

VI. A person shall be qualified as an elector in the Anglo-Indian constituency who has a place of residence in Bengal and has any of the qualifications prescribed for an elector of any urban or rural constituency.

**Joint families.**

VII. Where property is held or payments are made jointly by the members of a joint family, the family shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists; and, if it does exist, the person qualified shall be the manager of the family.

**Fiduciary capacity.**

VIII. A person shall not be qualified as an elector for a general constituency by virtue of any property held or payment made as a trustee, administrator, receiver or guardian or in any other fiduciary capacity.

*Special Constituencies.*

**Landholders' constituency.**

IX. A person shall be qualified as an elector of a Landholders' constituency who has a place of residence in the constituency and who during the previous year—

(a) in the case of the Burdwan Landholders, and Presidency Landholders' constituencies, held in his own right as a proprietor one or more estates or shares of estates and paid in respect thereof land revenue amounting to not less than Rs. 4,500, or road and public works cesses amounting to not less than Rs. 1,125, or,

(b) in the case of the Dacca Landholders', the Rajshahi Landholders' and the Chittagong Landholders' constituencies, held in his own right as a proprietor one or more estates or shares of estates, or one or more permanent tenures or shares of such tenures held direct from such a proprietor, and paid in respect thereof land revenue amounting to not less than Rs. 3,000, or road and public works cesses amounting to not less than Rs. 750.

**Determination of qualification**

X. In determining the qualification of a person as an elector for a Landholders' constituency—

(a) only such estates and shares of estates and only such permanent tenures and shares of permanent tenures as are not within

the district of Darjeeling or the Chittagong Hill Tracts, shall be taken into account ;

(b) only such estates and shares of estates as are held by him in his own right and not in a fiduciary capacity and are registered in his own name in the registers maintained under the Land Registration Act, 1876, shall be taken into account ;

(c) only such permanent tenures and shares of permanent tenures as are held by him (as owner) in his own right and not in a fiduciary capacity, shall be taken into account ;

(d) only land revenue or road and public works cesses payable in respect of his own personal share, shall be taken into account ;

(e) if a landholder pays land revenue or cesses in two or more constituencies and his payments in no one of these constituencies reach the amount prescribed for that constituency, and if his payments in all the constituencies, when aggregated, are not less than the amount prescribed for one of the constituencies in which he has a place of residence and pays land-revenue or cesses, he shall be qualified as an elector for that constituency or, if there is more than one such constituency, for the constituency in which he makes the largest payment ;

(f) if the amount of land-revenue or road and public works cesses paid by a landholder in respect of any share of an estate, or permanent tenure is not definitely known, the District Officer of the district in which such estate or tenure is situated shall estimate the amount paid in respect of such share, and his decision shall be final.

*Explanation.*—A *Mutwalli* or manager of a *wakf* estate shall be deemed to hold such estate in his own right, but a trustee or manager of an estate other than a *wakf* estate shall not be so deemed.

XI. A person shall be qualified as an elector for the Calcutta University constituency who has a place of residence in Bengal and is a member of the Senate or an Honorary Fellow of the University, or a graduate of the University of not less than seven years' standing.

XII. (1) 'Chamber members' of the Bengal Chamber of Commerce and 'permanent members' of the Indian Jute Mills Association and of the Indian Tea Association, and of the Indian Mining Association shall be qualified respectively as electors for the constituency comprising the Chamber or Association of which they are such members : provided that no person shall be so qualified who has not a place of residence in India.

*Explanation.*—"Chamber member" and "permanent member" include any person entitled to exercise the rights and privileges of chamber membership or permanent membership, as the case may be, on behalf of any firm, company or other corporation registered as such member.

(2) Members of the Calcutta Trades Association, life and ordinary members of the Bengal National Chamber of Commerce, life and ordinary members of the Bengal Mahajan Sabha, and life and ordinary and mufassal members of the Marwari Association, Calcutta, shall be qualified respectively as electors for the constituency comprising the Association, Chamber or Sabha of which they are such members : provided that no person shall be so qualified who has not a place of residence in India.

*Explanation.*—“ Member,” “ life member,” “ ordinary member ” and “ mufassal member ” include—

(a) in the case of a firm, any one partner in the firm, or, if no such partner is present in Calcutta at the date fixed for the election, any one person empowered to sign for such firm, and

(b) in the case of a company or other corporation any one manager, director or secretary of the company or corporation.

#### Labour constituency.

XIII. A person shall be qualified as an elector for a labour constituency who has a place of residence in the constituency and is, on account of employment by a company which is a member of one of the affiliated associations of the Bengal Chamber of Commerce, in receipt of a monthly wages amounting to Rs. 25 and not exceeding Rs. 35.

## Rules for the U. P. Legislative Council

#### Composition of Legislative council.

1. The Legislative Council of the Governor of the United Provinces of Agra and Oudh shall consist of—

[1] two members of the Executive Council *ex-officio* ;

[2] one hundred elected members ; and

[3] twenty-one members nominated by the Governor., of

whom—

[a] not more than sixteen may be officials, and

[b] three shall be persons nominated to represent respectively the following classes or interests, namely—

[i] the Anglo-Indian community ;

[ii] the Indian Christian community and

[iii] classes which in the opinion of the Governor are depressed classes.

**Elected Members—Constituencies.**

II. The elected members shall be elected by the constituencies specified in Schedule I to these rules, and the number of members to be elected by each constituency shall be as stated therein against that constituency.

[*Sec. III. General disqualifications same as on pp. 186-7.*]

IV. (1) A person shall not be eligible for election as a Member of the Council to represent—

(a) a non-Muhammadan or Muhammadan constituency unless his name is registered on the electoral roll of a non-Muhammadan or Muhammadan constituency ; or

[b] the European or a special constituency unless his name is registered on the electoral roll of the constituency.

[2] For the purpose of these rules—

[a] “General constituency” means a Non-Muhammadan, Muhammadan or European constituency.

[b] “Special constituency” means a Taluqdars’, Agra Landholders’, University, or Commerce and Industry constituency.

*For the rest of the rules See pp. 187-193 subject to the following corrections :—*

*For VI (1), iii (a) read “ownership or tenancy of a building” and for iii (b) read “assessment to Municipal Tax.”*

*In Section X (1), (7) Omit the provisos*

*In Section XI for (3) read the following :—*

(3) in the case of the general Taluqdars’ and Agra Landholders’ constituencies, the division of the constituencies into polling areas in such manner as to give all electors such reasonable facilities for voting as are practicable in the circumstances, and the appointment of polling stations for these areas ;

*And add Section XXI as follows :*

XXI. Until a Governor is appointed for the United Provinces of Agra and Oudh, references in these rules to the Governor shall be deemed to be references to the Lieutenant-Governor.



# SCHEDULE I.

## *List of Constituencies.*

Name of Constituency.		Class of Constituency.	Number of members.
Agra	City	Non-Muhammadian Urban	1
Cawnpore	do	do	1
Allahabad	do	do	1
Lucknow	do	do	1
Benares	do	do	1
Bareilly	do	do	1
Meerut cum Aligarh		do	1
Moradabad cum Shahjahanpur		do	1
Dehra Dun District		Non-Muhammadian Rural	1
Saharanpur	do	do	1
Muzaffarnagar	do	do	1
Meerut	do (North)	do	1
Meerut	do (South)	do	1
Meerut	do (East)	do	1
Bulandshahr	do (East)	do	1
Bulandshahr	do (West)	do	1
Aligarh	do (East)	do	1
Aligarh	do (West)	do	1
Muttra	do	do	1
Agra	do	do	1
Mainpuri	do	do	1
Etah	do	do	1
Bareilly	do	do	1
Bijnor	do	do	1
Budaun	do	do	1
Moradabad	do	do	1
Shahjahanpur	do	do	1
Pilibhit	do	do	1
Jhansi	do	do	1
Jalaun	do	do	1
Hamirpur	do	do	1
Banda	do	do	1
Farrukhabad District		Non-Muhammadian Rural	1
Etawah	do	do	1
Cawnpore	do	do	1
Fatehpur	do	do	1
Allahabad	do	do	1
Benares	do	do	1
Mirzapur	do	do	1
Jaunpur	do	do	1
Ghazipur	do	do	1
Ballia	do	do	1
Gorakhpur	do (West)	do	1
Gorakhpur	do (East)	do	1
Basti	do	do	1
Azamgarh	do	do	1

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Name of Constituency	Class of Constituency.	Number of Members.
Naini Tal	do	1
Almora	do	1
Garhwal	do	1
Lucknow	do	1
Unao	do	1
Rae Bareilly	do	1
Sitapur	do	1
Hardoi	do	1
Kheri	do	1
Fyzabad	do	1
Gonda	do	1
Bahraich	do	1
Sultanpur	do	1
Partabgarh	do	1
Bara Banki	do	1
Allahabad cum Benares	Muhammadian Urban	1
Lucknow cum Cawnpore	do	1
Agra and Meerut cum Aligarh	do	1
Bareilly and Shahjahanpur cum Moradabad.	do	1
Dehra Dun District (Muhammadian)	do	1
Saharanpur	do	1
Meerut	do	1
Muzaffarnagar	do	1
Bijnor	do	1
Bulandshahr	do	1
Aligarh, Muttra and Agra	do	1
Mainpuri, Etah and Farrukhabad	do	1
Etawah, Cawnpore and Fatehpur	do	1
Jhansi Division	do	1
Allahabad, Jaunpur and Mirzapur	do	1
Benares, Gazipur, Ballia and Azamgarh	do	1
Gorakhpur	do	1
Basti District (Muhammadian)	Muhammadian Rural	1
North Moradabad	do	1
South Moradabad	do	1
Budaun	do	1
Shahjahanpur	do	1
Bareilly	do	1
Kumaun Division cum Pilibhit	do	1
Gonda and Bahraich	do	1
Kheri and Sitapur Dist.	do	1
Hardoi, Lucknow and Unao	Muhammadian Rural	1
Fyzabad and Bara-Banki	do	1

Name of Constituency.	Class of Constituency.	Number of Members.
Sultanpur, Partabgarh and Rae Bareilly District	Muhammadan Rural	
European	do	1
Agra Landholders (North)	European	1
Agra Landholders (South)	Landholders	1
Taluqdars	do	1
Upper India Chamber of Commerce.	do	1
United Provinces chamber of Commerce.	Commerce and Industry	2
Allahabad University	do	1
	University	1

## SCHEDULE II.

### Qualifications of Electors.

#### Definitions.

I. In this Schedule—

(a) "a European"—[See p. 214, (b).]

(b) "municipal tax" means a tax imposed under the provisions of the United Provinces Municipalities Act, 1916, the United Provinces Town Areas Act, 1914, or the Cantonments Act, 1910 ;

(c) "owner" does not include a mortgagee, a trustee, or a lessee ;  
[See p. 214 1 (c).]

(e) "urban area" means a Municipality or notified area as defined in the United Provinces Municipalities Act, 1916, or a town area as defined in the United Provinces Town Areas Act, 1914, or a cantonment as defined in the Cantonments Act, 1910.

#### Joint families.

II. (1) Where property is held or payments are made jointly by the members of a joint family, the family shall be adopted as a unit for deciding whether under this Schedule the requisite qualification exists; and, if it does exist, the person qualified shall be, in the case of a Hindu joint family, the manager thereof or the member nominated in that behalf by a majority of the family, and in other cases the member nominated in that behalf by the family concerned.

(2) A person may be qualified either in his personal capacity or in the capacity of a representative of a joint family, but not in both capacities.

#### Occupation of house.

III. A person who occupies a house, other than a house in any military or police lines, by virtue of any office, service employment

shall, if the house is not inhabited by the person in whose service or employment he is, be deemed to occupy the house as a tenant.

IV. For the purpose of determining any claim to a qualification under this Schedule, the entries contained in land revenue and municipal records shall be conclusive evidence of the facts stated therein.

V. A person shall be qualified as an elector—

(a) for a non-Muhammadan constituency who is neither a European nor a Muhammadan,

(b) for a Muhammadan constituency who is a Muhammadan,

(c) for the European constituency who is a European :

Provided that such person possesses the further qualifications hereinafter prescribed for an elector of the particular constituency.

VI. Subject to the provisions of paragraph 5 of this Schedule, a person shall be qualified as an elector for an urban constituency who—(1) has a place of residence in the constituency or within two miles of the boundary thereof, and

(a) is, in any place in the area aforesaid in which a house or building tax is in force, the owner or tenant of a house or building of which the rental value is not less than Rs. 36 per annum, or

(b) was, in any area in the constituency in which no house or building tax is in force, assessed in the previous year to municipal tax on an income of not less than Rs. 200 per annum, or

(c) is, in any area in the constituency in which neither a house or building tax nor a municipal tax based on income is in force, the owner or tenant of a house or building of which the rental value is not less than Rs. 36 per annum, or

(d) has within the constituency any of the qualifications based on the holding of land hereinafter prescribed for an elector of a rural constituency; or

(2) has a place of residence in the constituency and—

(a) was in the previous year assessed to income-tax ; or

(b) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces.

#### Rural constituencies.

VII. Subject to the provisions of paragraph 5 of this Schedule, a person shall be qualified as an elector for a rural constituency who has a place of residence in the constituency and—

(a) is, in an urban area included in the constituency in which a house or building-tax is in force, the owner or tenant of a house or building of which the rental value is not less than Rs. 36 per annum ; or

(b) was, in an urban area included in the constituency in which

no house or building-tax is in force, assessed in the previous year to a municipal tax on an income of not less than Rs. 200 per annum ; or

(c) is, in an urban area included in the constituency where neither a house or building-tax nor a municipal-tax based on income is in force, the owner or tenant of a house or building of which the rental value is not less than Rs. 36 : or

(d) is the owner of land in the constituency in respect of which land revenue amounting to not less than Rs 25 per annum is payable ; or

(e) is the owner of land in the constituency free of land revenue, if the land revenue, nominally assessed on such land in order to determine the amount of rates payable in respect of the same, either alone or together with any land revenue payable by him as owner in respect of other land in the constituency, amounts to not less than Rs. 25 per annum ; or

(f) being a resident in the hill patts of Kumaun, is the owner of a free simple estate or is assessed to the payment of land revenue or cessess of any amount, or is a Kbaikar ; or

(g) being in the constituency a permanent tenure-holder or a fixed rate tenant as defined in the Agra Tenancy Act, 1901, or an under proprietor or occupancy tenant as defined in the Oudh Rent Act, 1886, is liable to pay rent as such of not less than Rs. 25 per annum ; or

(h) (i) being in the constituency a tenant as defined in the Agra Tenancy Act, 1901, or the Oudh Rent Act, 1886, other than a sub-tenant, holds land as such in respect of which rent of not less than Rs. 50 per annum or its equivalent in kind is payable, or

(ii) in areas in the United Provinces in which the Agra Tenancy Act, 1901, or the Oudh Rent Act, 1886, is not in force, holds land as a tenant in respect of which rent of not less than Rs. 50 per annum or its equivalent in kind is payable ; or

(i) was in the previous year assessed to income-tax ; or

(j) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces.

#### The European constituency.

VIII. Subject to the provisions of paragraph 5 of this Schedule, a person shall be qualified as an elector for the European constituency who has a place of residence in the United Provinces of Agra and Oudh and has any of the qualifications prescribed for an elector of any urban or rural constituency.

#### Special Constituencies—The Taluqdars' constituency.

IX. A person shall be qualified as an elector for the Taluqdars

constituency who is an ordinary member of the British Indian Association of Oudh.

**Agra Landholders' constituencies.**

X. A person shall be qualified as an elector for an Agra Landholders' constituency who has a place of residence in the constituency and—

(a) is the owner of land in the constituency in respect of which land revenue amounting to not less than Rs. 5, 000 is payable ; or

(b) is the owner of land in the constituency free of land revenue, if the land revenue nominally assessed on such land in order to determine the amount of rates payable in respect of the same, either alone or together with any land revenue payable by him as owner in respect of other land in the constituency, amounts to not less than Rs. 5, 000 per annum :

Provided that, in determining the eligibility of a landholder as an elector, only land revenue payable or nominally assessed in respect of such land or share in land as he may hold in his own personal right and not in a fiduciary capacity shall be taken into account.

**Commerce and industry constituencies**

XI. A person shall be qualified as an elector—

(a) for the Upper India Chamber of Commerce constituency who—

(i) is a member, other than an honorary or affiliated member, of the Upper India Chamber of Commerce and has a place of business within the United Provinces of Agra and Oudh ; or

(ii) is entitled to exercise the rights and privileges of membership of the said Chamber on behalf of and in the name of any firm, company or other corporation which has a place of business within the United Provinces of Agra and Oudh ; and

(b) for the United Provinces Chamber of Commerce constituency, who—

(i) is a member, other than an honorary member, of the United Provinces Chamber of Commerce and has a place of business or residence in the United Provinces of Agra and Oudh ; or

(ii) is entitled to exercise the rights and privileges of membership of the said Chamber on behalf and in the name of any firm, company or other corporation which has a place of business in the United Provinces of Agra and Oudh.

**The University constituency**

XII. A person shall be qualified as elector for the Allahabad University constituency, who—

(a) resides in India and is a member of the Senate or an Honorary Fellow of the University of Allahabad ; or

(b) resides in the United Provinces of Agra and Oudh and is—

(i) a Doctor or Master, or

(ii) a graduate of not less than seven years' standing, in any Faculty of the University of Allahabad :

Provided that, no elector shall have more than one vote in the constituency though he may have more than one of the afore-said qualifications.

## Punjab Legislative Council

I. The Legislative Council of the Governor of the Punjab shall consist of—

(1) two members of the Executive Council *ex-officio* ;

(2) sixty-five elected members ;

(3) twenty members nominated by the Governor, of whom—

(a) not more than fourteen may be officials, and

(b) four shall be persons nominated to represent the classes hereinafter specified according to the following distribution, namely :—

(i) the European and Anglo-Indian communities ... 2

(ii) the Indian Christian community ... 1

(iii) the Punjabi officers and soldiers of His Majesty's Indian Forces ... 1

II. The elected members shall be elected by the constituencies specified in Schedule I to these rules, and the number of members to be elected by each constituency shall be as stated therein against that constituency.

[Rule III same as before (pp. 185-6)]

IV. (1) A person shall not be eligible for election as a Member of the Council to represent any general or special constituency unless his name is registered on the electoral roll of the constituency.

(2) For the purpose of these rules—

(a) "general constituency" means a non-Muhammadan; Muhammadan, or Sikh constituency ; and

(b) "special constituency" means a Landholders', University, Commerce or Industry constituency.

For the rest of the Rules see pp. 187-193, subject to the following alterations, etc.

For "Fort St. George Gazette" read "Punjab Gazette.

For VI (1) (iii) read the following :

(iii) (a) ownership or tenancy of immoveable property, or

(b) assessment to municipal or cantonment taxes, or

(c) assessment to income tax, or

(d) receipt of a military pension, as are specified in Schedule—  
In X (1), (7) omit the provisos,

And add Sec. XXI as follows :—

XXI. Until a Governor is appointed for the Punjab, reference in these rules to the Governor shall be deemed to be references to the Lieutenant-Governor.

## SCHEDULE I.

### *List of Constituencies.*

Name of Constituency.	Class of Constituency.	Number of Members.
South-East Towns (Non-Muhammadian)	Non-Muhammadian Urban	1
North-East do do	do	1
West-Central do do	do	1
East-Central do do	do	1
North-West do do	do	1
West Punjab do do	do	4
Hissar do do	Non-Muhammadian Rural	1
South East Rohtak do do	do	1
North West Rohtak do do	do	1
Gurgaon do do	do	1
Karnal do do	do	1
Ambala cum Simla do do	do	1
Kangra do do	do	1
Hoshiarpur do do	do	1
Jullundur cum Ludhiana do do	do	1
Lahore and Ferozepur cum do do	do	1
Sheikhpura		
Amritsar cum Gurdaspur do do	do	1
Rawalpindi Division and do do	do	1
Lahor. Division (North)		
Multan Division do do	do	1
West Punjab Towns (Muhammadian)	Muhammadian Urban	1
West Central Towns do do	do	1
East Central do do	do	1
South East do do	do	1
Gurgaon cum Hissar do do	Muhammadian Rural	1
Ambala Division (North do do	do	1
East)		
Hoshiarpur cum Ludhiana do do	do	1
Ferozepore do do	do	1
Jullundur do do	do	1
Kangra cum Gurdaspur do do	do	1
Lahore do do	do	1
Amritsar do do	do	1
Sialkot do do	do	1
Gujranwala do do	do	1



Name of Constituency.	Class of Constituency.	No of members.
Sheikhupura	do	1
Gujrat	do	1
Shahpur	do	1
Mianwali cum Khushab	do	1
Attock	do	1
Rawal Pindi	do	1
Jhelum	do	1
Lyallpur North	do	1
Lyallpur South	do	1
Montgomery	do	1
Multan East	do	1
Multan West	do	1
Jhang	do	1
Muzaffargarh	do	1
Dera Ghazi Khan	do	1
Ambala Division with Hoshiarpur		
and Kangra (Sikh)	Sikh	1
Jullundur	do	1
Ludhiana	do	1
Ferozepore	do	1
Lahore	do	1
Amritsar	do	1
Sialkot cum Gurdaspur (Sikh)	do	1
Lyallpur (Sikh)	do	1
Multan Division and Sheikhupura (Sikh)	do	1
Rawal Pindi Division and Gujranwala (Sikh)	do	1
Punjab Landholders (General)	Landholders'	1
Muhammadian Landholders	do	1
Sikh Landholders	do	1
Baloch Tumandars	do	1
Punjab University	University	1
Punjab Chamber of Commerce and	Commerce and	1
Trades Association	Industry	
Punjab Industries	do	1

II. The definition in this Schedule of the extent of a rural constituency by reference to a Division or District or part of a District shall not have the effect of including in that constituency any area which is included in urban constituency of the same communal description.

## SCHEDULE II.

### Qualification of Electors

1. For the purposes of this Schedule—

(a) "annual rental value" in relation to immoveable property means the amount for which such property, together with its appertinances and furniture, if any, is actually let or may reasonably be expected to let from year to year ;

(b) "Date of publication of the electoral roll" means the date

on which the electoral roll for the time being under preparation is first published under these rules ;

(c) "land revenue " means land revenue as defined in section 3 (6) of the Punjab Land Revenue Act, 1887, and, in the case of fluctuating land revenue or land revenue assessed on lands subject to river action, the average amount of such land revenue paid during the three years preceding the date of publication of the electoral roll ;

(d) "member," in relation to the Punjab Chamber of Commerce or the Punjab Trades Association, includes any person entitled to exercise the rights and privileges of membership on behalf of and in the name of any firm, company or corporation registered as a member ;

(e) "owner" does not include a mortgagee ;

(f) "tenant" includes any person who is in possession of a house other than a military or police barrack, or of part of such a house, by virtue of any office, service or employment ;

(g) "the land records" means an attested record of rights or on attested annual record of rights maintained under Chapter IV of the Punjab Land Revenue Act, 1887, and includes an order finally sanctioning a motion duly passed under that Chapter ;

(h) "zaildar," "inamdar," "sufedposh" and "lambardar" mean respectively a person appointed as a zaildar, inamdar, sufedposh or lambardar in accordance with rules for the time being in force under the Punjab Land Revenue Act, 1887, and do not include a substitute appointed temporarily for any such person.

2. For the purposes of this Schedule, a person may be presumed to reside in a constituency if he has for the four years preceding the date of publication of the electoral roll continuously owned a residential house, or a share in a residential house, in the constituency, and that house has not during the twelve months preceding such date been let on rent either in whole or in part.

3. For the purpose of determining any claim to a qualification under this Schedule any entry in the land records or in any municipal or cantonment records shall be conclusive evidence of the facts stated therein.

4. Where property is held or payments are made by the members of a Hindu joint family, the family shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists ; and, if it does exist, the person qualified as an elector shall be the manager of the family or a person appointed by the majority of the family in that behalf.

#### *General Constituencies.*

5. A person shall be qualified as an elector—

(a) in a non-Muhammadian constituency who is neither a Muhammadan nor a Sikh,

(b) in Muhammadan constituency who is a Muhammadan,

(c) in a Sikh constituency who is a Sikh :

provided that such person has the further qualifications hereinafter prescribed for an elector of the particular constituency.

6. Subject to the provisions of paragraph 5 of this Schedule, a person shall be qualified as an elector for an urban constituency who resides in the constituency and who—

(a) has owned in the constituency for the twelve months preceding the date of publication of the electoral roll, immoveable property, not being land assessed to land revenue but including any building erected on such land, of the value of not less than Rs. 4,000 or of an annual rental value of not less than Rs. 96 : Provided that a person shall be deemed to have owned such property for any period during which it was owned by any person through whom he derives title by inheritance ; or

(b) has, for the twelve months aforesaid, occupied as a tenant in the constituency immoveable property, not being land assessed to land revenue but including any building erected on such land, of an annual rental value of not less than Rs. 96 ; or

(c) was, during the twelve months aforesaid, assessed in respect of any direct municipal or cantonment tax to an amount of not less than Rs. 50 ; or

(d) was, during the financial year preceding the date of publication of the electoral roll, assessed to income-tax ; or

(e) is a retired and pensioned officer (whether commissioned or non commissioned) of His Majesty's regular forces ; or

(f) has in the constituency any of the qualifications hereinafter prescribed for an elector of a rural constituency.

7. Subject to the provisions of paragraph 5 of this Schedule, a person shall be qualified as an elector for a rural constituency who resides in the constituency, and who—

(a) is a zaildar, inamdar, sufedposh or lambardar in the constituency ; or

(b) is the owner of land in the constituency assessed to land revenue of not less than Rs. 25 per annum ; or

(c) is an assignee of land revenue amounting to not less than Rs. 50 per annum ; or

(d) is a tenant or lessee, under the terms of a lease for a period of not less than three years, of Crown land in the constituency for which rent of not less than Rs. 25 per annum is payable : provided that, when the amount payable is assessed from harvest to harvest, the annual rent payable by such person shall be deemed to be the

annual average amount payable by him in the three years preceding the date aforesaid ; or

(e) is a tenant with a right of occupancy as defined in Chapter II of the Punjab Tenancy Act, 1887, in respect of land in the constituency assessed to land revenue of not less than Rs. 25 per annum ; or

(f) was, during the financial year preceding the date of publication of the electoral roll, assessed to income-tax ; or

(g) is a retired and pensioned officer (whether commissioned or non-commissioned) of his Majesty's regular forces ; or

(h) has in the constituency any of the qualifications prescribed for an elector of an urban constituency.

*Special Constituencies.*

8. (1) A person shall be qualified as an elector for a Landholders' constituency (other than the Baloch Tumandars' constituency) who resides in the Punjab and who is—

(b) the owner of land assessed to land revenue of not less than Rs. 500 per annum ; or

(a) an assignee of land revenue amounting to not less than Rs. 500 per annum :

Provided that, no person shall be qualified as an elector for the Muhammadan Landholders' constituency who is not a Muhammadan or for the Sikh Landholders' constituency who is not a Sikh, and no Muhammadan or Sikh shall be qualified as an elector for the Punjab Landholders' (General) constituency.

(2) A person shall be qualified as an elector for the Baloch Tumandar's constituency who is a Tumandar recognised by the Government or a person performing the duties of a Tumandar with the sanction of the Government.

9. A person shall be qualified as an elector for the Punjab University constituency who has resided in the Punjab during the twelve months preceding the date of publication of the electoral roll and is a Fellow or Honorary Fellow of the Punjab University or a graduate of the University of not less than seven years' standing.

10. A person shall be qualified as an elector for the Commerce constituency who has a place of business, or works for gain, in the Punjab Trades Association.

II. A person shall be qualified as an elector for the Industry constituency who—

(a) is the owner of a factory which is situated in the Punjab and is subject to the provisions of the Indian Factories Act, 1921, and in which work has been carried on during the twelve months preceding the date of the publication of the electoral, or

(b) is a partner in a firm owning such a factory and has been nominated by the firm for the purpose of voting in its behalf, or

(c) is a member of a company having a place of business in the Punjab and having a paid up capital of not less than Rs. 25,000, has been nominated by the company for the purpose of voting in its behalf.

## Rules for the B. & O. Legislative Council

1. The Legislative Council of the Governor of Bihar and Orissa shall consist of—

(1) two Members of the Executive Council *ex-officio* ;

(2) seventy-six elected members;

(3) twenty-five members nominated by the Governor, of whom—

(a) not more than eighteen may be officials, and

(b) nine shall be persons nominated to represent the classes or interests hereinafter specified according to the following distribution, namely:—

[i]	aborigines	...	...	...	...	2
[ii]	classes which are, in the opinion of the Governor, depressed	...	...	...	...	2
[iii]	industrial interests other than planting and mining	...	...	...	...	1
[iv]	the Bengali community domiciled in the province	...	...	...	...	1
[v]	the Anglo-Indian community	...	...	...	...	1
[vi]	the Indian Christian community	...	...	...	...	1
[vii]	the labouring classes	...	...	...	...	1

II. & III—*same as before* (p. 227)

IV. A person shall not be eligible for election as a member of the Council to represent—

(a) a non-Muhammadan or Muhammadan or the European constituency (which constituencies are hereinafter in these rules referred to as general constituencies) unless his name is registered on the electoral roll of the constituency or of another general constituency ;

(b) a Landlords', University, Planting, or Mining constituency (which constituencies are hereinafter in these rules referred to as special constituencies) unless his name is registered on the electoral roll of the constituency,

*For the rest of the Rules see pp. 187-193, subject to the following alterations, etc.—*

*For "Fort St. George Gazette" read "B. & O. Gazette."*

*For VI (1) iii read the following :—*

(iii) (a) assessment to municipal or cantonment rates or taxes, or

(b) assessment to income-tax, or

(c) receipt of a military pension or

(d) the holding of land, or

(e) assessment under section 118C of the Bengal Local Self-Government Act, 1885.

*In X (1), (7) omit the provisos,*

*And add Sec XXI similar to XXI p. 229*

## SCHEDULE I.

### *List of Constituencies.*

Name of Constituency.	Class of Constituency.	No. of Members.
Patna	Non-Muhammadan Urban	1
Patna Division	do	1
Tirhut Division	do	1
Bhagalpur Division	do	1
Orissa Division	do	1
Chota Nagpur Division	do	1
West Patna	Non-Muhammadan Rural	1
East Patna	do	1
West Gaya	do	1
Central Gaya	do	1
East Gaya	do	1
Arrah	do	1
Central Shahabad	do	1
South Shahabad	do	1
North Saran	do	1
South Saran	do	1
North Champaran	do	1
South Champaran	do	1
North Muzaffarpur	do	1
East Muzaffarpur	do	1
West Muzaffarpur	do	1
Hajipur	do	1
North-West Darbhanga	do	1
North-East Darbhanga	do	1
South-East Darbhanga	do	1
Samastipur	do	1
North Bhagalpur	do	1
Central Bhagalpur	do	1
South Bhagalpur	do	1
East Monghyr	do	1

Name of Constituency.	Class of Constituency	No of Members.
North-west Monghyr	Non-Muhammadian Rural	1
South-west Monghyr	do	1
Purnea	do	1
Santal Parganas (North)	do	1
Santal Parganas (South)	do	1
North Cuttack	do	1
South Cuttack	do	1
North Balasore	do	1
North Puri	do	1
South Puri	do	1
Sambalpur	do	1
Ranchi	do	1
Hazaribagh	do	1
Palamau	do	1
North Manbhum	do	1
South Manbhum	do	1
Singhbhum	do	1
Patna Division	Muhammadian Urban	1
Tirhut Division	do	1
Bhagalpur Division	do	1
West Patna	Muhammadian Rural	1
East Patna	do	1
Gaya	do	1
Shahabad	do	1
Saran	do	1
Champaran	do	1
Muzaffarpur	do	1
Darbhanga	do	1
Bhagalpur	do	1
Monghyr	do	1
Kishanganj	do	1
Purnea	do	1
Santal parganas	do	1
Orissa Division	do	1
Chota Nagpur Division	do	1
European	European	1
Patna Division Landholders	Landholders	1
Tirhut Division „	do	1
Bhagalpur Division „	do	1
Orissa Division „	do	1
Chota Nagpur „	do	1
Bihar Planters	Planting	1
Indian Mining association	Mining	1
Indian Mining federation	do	1
Patna University	University	1

## SCHEDULE II.

### Qualifications of Electors.

1. For the purposes of this Schedule—

(a) “a European” means [See p. 214 I (b)]

(b) “member” in relation to a Planting or Mining Association includes any person entitled to exercise the rights and privileges of membership on behalf of and in the name of any firm or company or corporation registered as a member ;

(c) “previous year” means [See p. 214 I (c)]

(d) a person shall be deemed to have a place of residence within the limits of a constituency if he—

(a) ordinarily lives within those limits, or

(b) has his family dwelling house within those limits and occasionally occupies it, or

(c) maintains within those limits a dwelling-house ready for occupation in charge of servants and occasionally occupies it.

*Explanation.*—A person may be resident within the limits of more than one constituency at the same time.

2. Where property is held or payments are made jointly by the members of a joint family, the family shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists ; and, if it does exist, the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and in other cases the member authorised in that behalf by the family concerned.

#### General Constituencies

3. A person shall be qualified as an elector for a non-Muhammadan or Muhammadan urban constituency who has a place of residence in the constituency or within two miles of the boundary thereof, and—

(a) was in the previous year assessed in respect of any municipal or cantonment rates or taxes to an aggregate amount of not less than Rs. 3, or

(b) was in the previous year assessed to income-tax, or

(c) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces, or

(d) holds within the constituency any of the qualifications hereinafter prescribed for an elector of a rural constituency :

Provided that—

(a) no person who is not a Muhammadan shall be qualified as an elector for a Muhammadan constituency, and



(b) no Muhammadan or European shall be qualified as an elector for a non-Muhammadan constituency.

4. A person shall be qualified as an elector for a non-Muhammadan or Muhammadan rural constituency who has a place of residence in the constituency, and—

(a) holds an estate or estates or portion of an estate or portions of estates for which a separate account or accounts (including a residuary account) has or have been opened for which land, whether revenue-paying or revenue-free or rent-free land, an aggregate amount of not less than Rs. 12 per annum is payable direct to the Treasury as local cess ; or

(b) holds a tenure or tenures and is assessed for the purpose of local cess at an aggregate amount of not less than Rs. 100 per annum ; or

(c) holds land as a raiyat and is liable to pay an annual aggregate rent or local cess amounting respectively—

(i) to Rs. 16 and to 8 annas in constituencies in the Orissa and Chota Nagpur Divisions,

(ii) to Rs. 64 and to Rs. 2 in constituencies in the Patna Division and the Munghyr District,

(iii) to Rs 24 and to 12 annas in constituencies in the Sonthal Parganas, and

(iv) to Rs. 48 and to Rs. 1-8-0 elsewhere ; or

(d) was in the previous year assessed to not less than Rs. 1-8-0 under section 118C of the Bengal Local Self-Government Act, 1885, or

(e) was in the previous year assessed to income-tax ; or

(f) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces ; or

(g) being a Muhammadan resident in the Orissa or Chota-Nagpur Divisions, was in the previous year assessed in respect of any municipal or cantonment rates or taxes to an aggregate amount of not less than Rs. 3 :

Provided that—

(i) no person who is not a Muhammadan shall be qualified as an elector for a Muhammadan constituency, and

(ii) no Muhammadan or European shall be qualified as an elector for a non-Muhammadan constituency.

5. A person shall be qualified as an elector for the European constituency who is a European and has a place of residence in the province of Bihar and Orissa, and has any of the qualifications prescribed for an elector of any urban or rural constituency.

#### **Special Constituencies. Landholder's constituencies**

6. (1) Every landholder shall be qualified as an elector for a Landholders' constituency who has a place of residence in the consti-

tuency and is liable to pay not less than Rs. 4,000 land revenue or Rs. 1,000 local cess in the case of the Patna Division Landholders', the Tirhut Division Landholders', and the Bhagalpur Division Landholders' constituencies or Rs. 6,000 land revenue or Rs. 500 local cess in the case of the Orissa Division Landholders' and Chota Nagpur Division Landholders' constituencies.

(2) In determining the qualification of a landholder as an elector for any constituency—

(a) only such estates and shares of estates as are held by him as proprietor in his own right and not in a fiduciary capacity and are registered in his own name in registers maintained under the Land Registration Act, 1876, whether such estates or shares are situated in one or more constituencies, shall be taken into account ;

(b) if the amount paid by the landholder in respect of any such share of an estate is not definitely known, the District Officer of the district in which such estate is situated shall estimate the amount so paid in respect of such shares, and his decision shall be final ; and

(c) if a landholder pays land-revenue or cesses in respect of estates, or shares in estates, situated in two or more constituencies and if his payments in any one constituency do not qualify him as an elector, his payments within all the constituencies shall be aggregated, and, if such aggregate equals or exceeds the amount prescribed for the constituency in which he makes the largest payment, he shall be qualified as an elector for that constituency.

7. A person shall be qualified as an elector for the Patna University constituency who is a graduate of more than seven year's standing, registered under Regulation 2, Chapter XII of the Regulations of the Patna University.

8. A person shall be qualified as an elector for the Bihar Planters' constituency who is a member of the Bihar Planters' Association, Limited, and qualified to vote as such and for the time being resident in India.

9. A person shall be qualified as an elector for the Indian Mining Association constituency who is a member of the Indian Mining Association, and a person shall be qualified as an elector for the Indian Mining Federation constituency who is a member of the Indian Mining Federation : provided that, any person who is a member both of the Association and of the Federation shall be qualified as an elector for such one only of the constituencies as he may elect.

# Rules for the C. P. Legislative Council

1. The Legislative Council of the Governor of the Central Provinces shall consist of—

- (1) two members of the Executive Council *ex-officio* ;
- (2) thirty-seven elected members ;
- (3) thirty-one members nominated by the Governor, of whom—
  - (a) not more than eight may be officials,
  - (b) seventeen shall be persons nominated as the result of elections held in Berar, and
  - (c) five shall be persons nominated to represent the classes hereinafter specified according to the following distribution, namely :—

(i) the inhabitants of the Mandla district excluding Mandla town,	...	...	...	...	1
(ii) the inhabitants of zamindari and jagirdari estates declared to be backward tracts,	...	...	...	...	1
(iii) the European and Anglo-Indian communities,	...	...	...	...	1
(iv) classes which, in the opinion of the Governor, are depressed classes,	...	...	...	...	2

Provided that, until the reconstitution of the Council next following the date on which a University is established at Nagpur, the number of elected members shall be thirty-six and number of persons nominated by the Governor shall be thirty-two, of whom one shall be nominated to represent University graduates in the Central Provinces.

II. (*See p. 186*) with following proviso,

5. Provided that, the provisions of this rule shall, in respect of the University constituency referred to in the said Schedule, first have effect for the purpose of the general election next following the date on which a university is constituted at Nagpur.

III. (*See p. 186-7*)

IV. (1) A person shall not be eligible for election as a Member of the council to represent any general or special constituency unless his name is registered on the electoral roll of the constituency.

(2) For the purpose of these rules—

(a) "general constituency" means a non-Muhammadan or Muhammadan constituency ; and

(b) "special constituency" means a Landholders', University, Mining, or Commerce and Industry constituency.  
(*Rest as before*)

## SCHEDULE I.

*I.—List of Constituencies.*

Name of Constituency.	Class of Constituency.	No. of Members.
Jubbulpore City	Non-Muhammadian Urban	1
Jubbulpore Division (Urban)	do	1
Chattisgarh do do	do	1
Nerbudda do do	do	1
Nagpur City cum Kamptee	do	2
Nagpur Division	do	1
Jubbulpore District South	do	1
Jubbulpore do North	do	1
Damoh do	do	1
Saugor do	do	1
Seoni do	do	1
Raipur do North	do	1
" do South	do	1
Bilaspur do	do	1
Drug do	do	1
Hoshangabad do	do	1
Nimar do	Non-Muhammadian Rural	1
Narsinghpur do	do	1
Chhindwara do	do	1
Betul do	do	1
Nagpur do (East)	do	1
Nagpur do (West)	do	1
Wardha Tahsil	do	1
Wardha do	do	1
Chanda do	do	1
Bhandara do	do	1
Balaghat do	do	1
Jubbulpore Division	Muhammadian Rural	1
Chattisgarh Division	do	1
Narbudda Division	do	1
Nagpur Division	do	1
Jubbulpore and Narbudda	Landholders	1
Nagpur and Chattisgarh	do	1
Nagpur University	University	1
Central Provinces and Berar Mining Association.	Mining	1
Central Provinces	Commerce and Industry	1

II. The definition in this Schedule of a non-Muhammadian rural constituency by reference to a District or part of a District shall not have the effect of including in that constituency any area included in a non-Muhammadian urban constituency.

## SCHEDULE II.

### Qualification of Electors

1. For the purposes of this Schedule—

(a) 'member' in relation to the Central Provinces and Berar Mining Association includes any person entitled to exercise the rights and privileges of membership on behalf of and in the name of any firm, company or corporation registered as a member ;

(b) 'previous year' means the financial year preceding that in which the electoral roll for the time being under preparation is first published under these rules ;

(c) 'urban area' means a municipality, notified area, cantonment, or railway settlement.

(d) a person shall be deemed to have a place of residence in a constituency if he—

(i) has actually dwelt in a house, or part of a house, within the constituency for an aggregate period of not less than 180 days during the calendar year preceding that in which the electoral roll for the time being under preparation is first published under these rules ; or

(ii) has maintained within the constituency for an aggregate period of not less than 180 days during that year a house, or part of a house, as a dwelling for himself in charge of his dependants or servants, and has visited such house during that year.

2. For the purpose of determining any claim to qualification under this Schedule any entry in the land records or in any municipal records shall be conclusive evidence of the facts stated therein.

3. Where an estate or mahal, or a share of an estate or mahal, or land is held or where income-tax or local cesses are paid jointly by the members of a joint family, the family shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists ; and if it does exist, the manager of the family shall be qualified as an elector :

Provided that, the entry on an electoral roll of a person in his capacity as the manager of a joint family shall not disqualify him as an elector in his individual capacity.

4. For the purposes of this Schedule a person who occupies a house or building, other than a house or building in any military or police lines, or part of such a house or building by virtue of any office, service or employment shall, if the house or building is not inhabited by the person in whose service or employ he is, be deemed to occupy the house or building as a tenant.

## General Constituencies. Urban Constituencies

A person shall be qualified as an elector of an urban constituency or within two miles of the boundary thereof, and who—

(a) is, in the constituency, the owner or tenant of a house or building, or part of a house or building, of which the annual rental value is not less than Rs. 36 : provided that, where a house or building or part of a house or building is held by two or more persons in shares, no person shall be qualified in respect of a share the annual rental value of which is less than Rs. 36 : or

(b) in constituencies where the rental value of a house or building is not the basis of municipal taxation, was in the previous year assessed to a municipal tax on an income of not less than Rs. 200 ; or

(c) was in the previous year assessed to income-tax ; or

(d) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces ; or

(e) has, in respect of land in the constituency, any of the qualifications prescribed for an elector of a rural constituency :

Provided that—

(i) no person other than a Muhammadan shall be qualified as an elector for a Muhammadan constituency ; and

(ii) no Muhammadan shall be qualified as an elector for a non-Muhammadan constituency.

6. A person shall be qualified as an elector for a rural constituency who has a place of residence in the constituency and who—

(a) is, in urban area in the constituency, the owner or tenant of a house or building, or part of a house or building, of which the annual rental value is not less than Rs. 36 or

(b) was, in an urban area in the constituency where the rental value of a house or building is not the basis of municipal taxation, assessed in the previous year to a municipal tax on an income of not less than Rs. 200 ; or

(c) is a lambardar of a mahal, or

(d) is a proprietor or thekadar of an estate or mahal in the constituency, the land revenue or kamiljama of which is not less than Rs. 100 ; or

(e) holds in the constituency, as a proprietor or thekadar in proprietary right, ~~str~~ land or khudkasht, or is a malik-makbuza, rayat or tenant of agricultural land in the constituency, the assessed or assessable revenue or rent of which is not less—

(i) in the case of land in the Raipur, Bilaspur, Drug, Chanda and Betul Districts, than Rs. 30, or

(ii) in the case of land in the Bhandara, Balaghat, Nimar, Chhindwara and Seoni Districts, than Rs. 40, or

(iii) in the case of land in any other District, than Rs. 50, or

(f) was in the previous year assessed to in-come tax, or  
 (g) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces :

Provided that—

(i) no person other than a Muhammadan shall be qualified as an elector for a Muhammadan constituency ; and

(ii) no Muhammadan shall be qualified as an elector for a non-Muhammadan constituency.

*Explanation* :—For the purpose of clause (e) “tenant” shall not include a sub-tenant or ordinary tenant of *sir* land.

#### Special Constituencies. Landholders constituencies.

7. A person shall be qualified as an elector for a Landholders' constituency who has a place of residence in the constituency and holds in the constituency agricultural land in proprietary right and who—

(a) is the holder of a hereditary title recognised by Govt. ; or

(b) is the owner of an estate as defined in section 2 (3) of the Central Provinces and Revenue Act, 1917 ; or

(c) is liable to pay on the land which he holds in proprietary right land-revenue or Kamil-jama not less than Rs. 3,000 per annum.

#### The University constituency.

8. A person shall be qualified as an elector for the Nagpur University constituency who is—

(a) a graduate of seven years' standing of the Nagpur University, or if he has graduated before the establishment of the Nagpur University and is resident in the Central Provinces, a graduate of seven years' standing of the Allahabad University, or

(b) a Fellow or Honorary Fellow of the Nagpur University, or, if he was appointed a Fellow of the Allahabad University before the constitution of the Nagpur University and is resident in the Central Provinces, Fellow or Honorary Fellow of the Allahabad University.

9. A person shall be qualified as an elector for the Central Provinces and Berar Mining Association constituency who is a member of the Central Provinces and Berar Mining Association.

#### The Commerce and Industry constituency.

10. A person shall be qualified as an elector for the Central Provinces Commerce and Industry constituency who—

(a) is either the owner of a factory situated in the Central Provinces and which is subject to the provisions of the Indian Factories Act, 1911, or a person appointed by the owner of such a factory for the purpose of voting on his behalf ; or

(b) has been appointed for the purpose of voting by any company having a place of business in the Central Provinces and having a paid-up capital of not less than Rs. 25,000.

# Rules for the Assam Legislative Council

## Composition of Legislative Council.

1. The Legislative Council of the Governor of Assam shall consist of—

1. two members of the Executive Council ex-officio ;
2. thirty-nine elected members ; and
3. twelve members nominated by the Governor, of whom—

(a) not more than seven may be officials, and

(b) two shall be non-official persons nominated to represent respectively the following classes, namely—

(i) the labouring classes ; and

(ii) the inhabitants of backward tracts.

*II and III as before.*

**Special qualifications for election in case of certain constituencies.**

IV. A person shall not be eligible for election as a member of the Council to represent—

(a) the Shillong constituency or non-Muhammadan or Muhammadan rural constituency (which constituencies are hereinafter in these rules referred to as general constituencies), unless his name is registered on the electoral roll of the constituencies or of another general constituency ; or

(b) a Planting, or Commerce and Industry constituency (which constituencies are hereinafter in these rules referred to as special constituencies), unless his name is registered on the electoral roll of the constituency.

## SCHEDULE I.

### *List of Constituencies.*

Name of Constituency.	Class of Constituency.	No. of members.
Shillong	General Urban	1
Silchar	Non-Muhammadan Rural	1
Hailakandi	do	1
Sylhet Sadr	do	1
Sunamganj	do	1
Habiganj (North)	do	1
Habiganj (South)	do	1
South Sylhet	do	1



Name of Constituency.	Class of Constituency.	No of members.
Karimganj	Non-Muhammadan Rural	1
Dhubri	do	1
Goalpara	do	1
Gauhati	do	1
Barpeta	do	1
Tezpur	do	1
Mangaldai	do	1
Nowgong	do	1
Sibsagar	do	1
Jorhat	do	1
Golaghat	do	1
Dibrugarh	do	1
North Lakhimpur	do	1
Cachar	Muhammadan Rural	1
Sylhet Sadr (North)	do	1
Sylhet Sadr (South)	do	1
Sunamganj	do	1
Habiganj (North)	do	1
Habiganj (South)	do	1
South Sylhet	do	1
Carmiganj	do	1
Dhubri	do	1
Goalpara cum South Salmava	do	1
Kamrup and Darrang cum Nowgong	do	1
Sibsagar cum Lakhimpur	do	1
Assam Valley	Planting	3
Surma Valley	do	2
Commerce and Industry	Commerce and Industry	1

## SCHEDULE II

### Qualification of Electors

#### Definitions.

1. In this Schedule—

(a) “estate” means an estate as defined in section 2 of the Assam Labour and Emigration Act, 1901.

(b) “manager” in relation to a tea estate includes an assistant manager in separate charge thereof ;

(c) “previous year” means the financial year preceding that in which the electoral roll for the time being under preparation is first published under these rules.

**General Constituencies. Shillong urban constituency.**

2. A person shall be qualified as an elector for the Shillong constituency who has during the previous year resided within the constituency and who—

(a) was in the previous year assessed in respect of municipal or cantonment rates or taxes to an aggregate amount of not less than Rs. 3 ; or

(b) was in the previous year assessed to income-tax ; or

(c) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces or of the Assam Rifles.

3. A person shall be qualified as an elector for a rural constituency who has during the previous year resided within the constituency and who—

(a) was in the previous year assessed in respect of municipal or cantonment rates or taxes to an aggregate amount of not less than Rs. 3, or, in the case of an assessment in the Nowgong Municipality, of not less than Rs. 2, or in the case of an assessment in the Sylhet Municipality of not less than Rs. 1-8-0 ; or

(b) was in the previous year assessed to a tax of not less than Re. 1 in a union under Chapter III of the Bengal Municipal Act, 1876 ; or

(c) in the case of constituencies in the Sylhet, Cachar and Goalpara District was in the previous year assessed to a chaukidari tax of not less than Re. 1 under the Village-Chaukidari Act, 1870 ; or

(d) in the case of any constituency other than those referred to in clause (c)—

(i) owned land, the land revenue upon which has been assessed or is assessable at not less than Re. 1 per annum ; or

(ii) is liable to pay a local rate of not less than Re. 1 per annum ; or

(e) was in the previous year assessed to income-tax ; or

(f) is a retired and pensioned officer (whether commissioned or non-commissioned) of His Majesty's regular forces or of the Assam Rifles :

Provided that—

(i) no person other than a Muhammadan shall be qualified as an elector for a Muhammadan constituency, and

(ii) no Muhammadan shall be qualified as an elector for a non-Muhammadan constituency.

#### Joint families.

4. Where property is held or payments are made jointly by the members of a joint family, the family shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists : and, if it does exist, the person qualified shall be,

in the case of a Hindu joint family, the manager thereof and in other cases the member authorised in that behalf by the family concerned.

**Special Constituencies. Planting constituencies.**

5. A person shall be qualified as an elector for the Assam Valley Planting constituency who is the Superintendent or manager of a tea estate in the Assam Valley, and a person shall be qualified as an elector in the Surma Valley Planting constituency who is the superintendent or manager of a tea estate in the Surma Valley.

**Commerce and Industry constituencies.**

6. A person shall be qualified as an elector for the Commerce and Industry constituency who—

(a) is the owner of a factory, other than a tea factory, situated in Assam and which is subject to the provisions of the Indian Factories Act, 1911, or is a person appointed by the owner of such a factory for the purpose of voting on his behalf ; or

(b) has been appointed for the purpose of voting by any company, other than a company principally engaged in the tea industry, having a place of business in Assam and having a paid-up capital of not less than Rs. 25,000.

# Imperial Bank of India

## Despatch of the Govt. of India to the Sec. of State

*Simla, 25th. June 1919. (Published in India on February 10th. 1920)*

We have the honour to place before you a proposal for the amalgamation of the three Presidency Banks of Bengal, Bombay, and Madras. We were originally approached informally in this matter by the Secretaries of the three Banks, and you have already cordially approved the idea of amalgamation contemplating as it did such increase of capital as may be necessary, a scheme for increasing the number of banks and improvements in the future management of the rupee debt in India. You have also informed us that, in order to assist the movement, you would agree to the transfer to the amalgamated bank, under such safeguards as we may see fit to recommend, of the balances now held in the reserve treasuries in India. Subsequently, you agreed in principle that the amalgamated bank shall be allowed to open an office in London, but reserved, until you received the detailed scheme, your decision as to the restriction to be imposed on the business to be conducted by the Bank in London. We have since received from the Directors of the three Banks a joint Memorandum (enclosure 1) embodying the scheme which, with your approval, they propose to lay before their share-holders. The details of the scheme have been informally discussed in conversations between our Finance Department and the representatives of the three Banks with the purpose of ascertaining precisely what the Banks propose and in particular what they expect from the Government. We have now examined the draft scheme, and it has our general approval. The Memorandum is, to a large extent, self-explanatory, and we need not, therefore, recapitulate its item, but proceeded to express our views upon some of its more important aspects in so far as these affect the interests of ourselves and of the general public.

Before doing so, however, we consider it important to emphasise that the present movement is purely spontaneous, that it is the natural growth of banking evolution, and that, though it would be unwise to attempt to foresee the process, what is now happening will be a more valuable foundation for any later movement which may eventuate in the direction of a State Bank. You will observe that a large part of the proposals which have been placed before us

represents merely a measure of consolidation, which is merely the domestic concern of the three Presidency Banks. As pointed out in paragraph 2 of the Directors' Memorandum, the interest of the Banks themselves render it highly desirable, if not imperative, to effect some sort of consolidation and to make a supreme effort to overcome the obstacle of local interests and to avoid the inter-provincial jealousies and mutual suspicions which had a large share in wrecking previous attempts at amalgamation to a scheme of that character, conceived, as is the present, in a spirit of mutual co-operation and forbearance. There could, we imagine, be no possible objection on the part of the State unless it could be shown, which, in this instance, is clearly not the case, that it was in some way detrimental to National interests. If then the Banks' proposals were limited to mere consolidation of interests and a pooling of resources, we should, while welcoming the unification and strengthening of these important public institutions and the consequent simplification of our own relations with them, find it necessary to say little in support of the scheme. It is because the present purposes go considerably further than a mere banking amalgamation and contain the germ of large developments which, as we believe, can not fail to result in much benefit to this country, that we attach to them the highest importance and make no apology for examining at some length their bearing upon certain current problems.

The main direction in which we look for National gain for commending them to you strongly lies in the promise they hold of helping appreciably to further the development of banking in India. As you are, doubtless, aware, public opinion in this country is rapidly growing more articulate as to the necessity for a wide-spread increase in banking facilities, if India's industrial development is not to be hampered and if the people are to be weaned from their present predilection for holding their savings in the form of hoarded cash or bullion. The subject has been ventilated on more than one occasion recently in our Legislative Council. It was brought prominently to the notice of the recent Industries Commission by many witnesses, and our currency difficulties of the last few years have forced it more and more upon our attention while the success of the propaganda associated with the two War Loans has thrown an instructive light upon the amount of money in this country which is at present diverted into fruitful employment, but it would not, we think, be altogether correct to ascribe this state of affairs solely to the ingrained habits of the people, their ignorance, their conservatism and their suspicion, which can only be removed by the process of education. That the spread of education will work a steady and substantial change in the mental attitude of the

people on this matter we have no doubt, but it is useless to educate people into a willingness to follow civilised habits as regards keeping a hand in banking facilities. For them to do so, progress in these two respects must go hand in hand. Even, however, in the present stage of educational development, there is undoubted room for a much larger supply of banking facilities as witnessed by the temporary success of certain banks in the richer agricultural districts of Northern India, unsoundness of which, followed by their failure in 1913, had an unfortunate effect in retarding in those parts of the country the development of the banking habit.

It is true that during the past two decades there has been, on the whole, a large increase in the number of banks operating in India and in the volume of their deposits, and there has similarly been very large and steady growth in the amount of cheques passed through the Clearing Houses at Calcutta, Bombay, Madras, Karachi and Rangoon. It would, however, be incorrect to infer that an increase in banking deposits or in the number of cheques drawn on banks indicates anything like a corresponding increase in banking habits or indeed very much more than that the volume and turn-over of money in the principal money markets have enormously increased in bank deposits and in the amount of cheques cleared has accrued at the principal seaports, and taking India as a whole, we think that no competent observer would deny that banking development in India is far behind the country's necessities.

In our opinion an indispensable preliminary to any widespread growth in banking is the establishment of a strong, unified bank in intimate relations with Government and with a large number of branches throughout the country. At the present time there are more than 200 districts in India and Burma in which there is no branch of the Presidency Bank and only in a very few of these is there a branch of a joint stock bank of any importance (such as the Alliance Bank of Simla and of the Allahabad Bank) doing banking business on modern lines. We doubt, if in the present constitution in which there are three separate banks working independently, any further substantial increase in the number of branches is to be looked for owing mainly to the considerations of territorial limits and of profit and loss. The Presidency Banks have now undertaken as part of the present amalgamation scheme to establish 100 new branches within 5 years, and we have every reason to hope that the progressive policy thus initiated will be continued until at least in every district and eventually in every town of importance a branch of the Imperial Bank is established. We do not claim that the wide-spread extension of branches will work a sudden miracle or will immediately prove itself the long sought talisman to charm

the wealth of India from its hoards. We do not look for rapid or dramatic results, but a beginning must be made, and we think that mere appearance in a district of a bank which conducts Government's treasury and public business, as to whose stability there can be no question and from which local traders and dealers in produce can obtain advances on reasonable terms, must, in due course, inevitably have an appreciable effect upon the local mental attitude towards banking in general, and in the course of time we shall expect to see the new branches of the Imperial Bank attract a large amount of deposit from the general public in such localities.

There are, moreover, other results which may reasonably be looked for from the large increase in the number of branches now contemplated. In those places in which they are already established, the Presidency Banks usually act as bankers of the other local banks. They keep most of the latter's cash, and it is to the Presidency Bank that a local bank turns when it is in difficulties or when in a period of tight money it desires to pledge Government or other gilt edged securities. The position of the Presidency Bank, as bankers, has noticeably grown during the recent years, and on many occasions have the Presidency Banks rendered valuable assistance in quelling an incipient panic or in coming to the relief of a local bank which, through no fault of its own, was in temporary difficulties. It cannot, we think, be expected that the number of banks in up-country districts can be largely increased or can be placed on a satisfactory footing unless there is at their door a powerful bank to which a sound institution can turn in time of trouble and to which it can look for guidance in its general financial policy. Many of such banks would, of course, engage in business from which a Presidency Bank or its successor must necessarily be debarred, but it is, we think, of great importance that they should have behind them an institution on which they can rely for assistance and which will form the solid background necessary for the healthy development of the various forms of banking, agricultural, industrial and ordinary joint stock, of which this country is admittedly in need. For such development, moreover, an equal necessity is a sufficient supply of men trained in modern methods of book keeping. The mere staffing of a large number of new branches of the amalgamated bank will necessarily involve training, the employment of Indian agency to a very much greater extent than at the present time, and a demand for and training of such men by the Imperial Bank should have a variable influence in stimulating their supply for other banking institutes, just as the requirements of our Public Works Department have undoubtedly stimulated the growth of the engineering profession in India. A further and almost equally important result, which

we anticipate will follow from the establishment of the new Bank and from the multiplication of its branches, is a substantial increase in the assistance given by it to the internal trade of the country through its relations with the indigenous banking system. The extent to which the Presidency Banks already help to finance the internal trade of India by their purchases and rediscounting of internal bills of exchange known generally as hundis at their Head-offices and branches, is not perhaps always realised. The shroffs, mahajans, chettis and others, who, either directly or by their relations with smaller "bankers" of the same kind, largely finance the movement of produce and of important articles of commerce such as piece-goods in the up-country markets, rely to a very great extent upon assistance from the Presidency Banks, when in a season of active trade, their own capital is fully employed on some occasions, for example, when the amount of hundis held by the Banks of Bengal and Bombay has exceeded a third of their total advances, and during the busy season the proportion is really less than a quarter. The connection of the Presidency Banks with up-country trade is thus very close and intimate. By the rates which they charge on the discount of hundis and by their willingness or refusal to extend their commitments in that direction, they profoundly influence the provision of credit and money rates in the up country bazaars. It is clear that by ratification of its operations through a largely increased number of branches and by its ability to employ more funds in the discount of hundis and similar bills, the amalgamated bank will be able to irrigate the channels of internal trade to a substantially larger extent than is at present possible.

And again, the mere fact of amalgamation will at once facilitate the improvement of the administration of the public debt to which we attach great importance and have recently given much attention and in which the banks have expressed their readiness, after amalgamation, to give us their full co-operation. The law regarding Government securities in India and the rules and procedure relating thereto, which are largely the result of the present law and the system under which the public debt accounts are maintained, were framed at a time when the holders of our securities consisted mainly of substantial people in the principal cities and towns, and when the tenders to our annual loans were confined chiefly to a few banks and financial houses. Even before the War it was manifest that our public debt system required a radical overhauling. The experience gained during the unexpectedly successful operations of the two Indian War Loans has now shown that reforms in this direction are imperative if we are to retain touch with the



enormously increased number of holders of our securities scattered throughout India and are not to alienate the small investor by procedure and rules which, though tolerable perhaps to the business people and large investors, are unsuitable and irritating to the semi-educated holders of a hundred rupee bond in an up-country district. We hope in the near future to be in a position to lay before you our proposals for the recasting of the present Indian Securities Act and of the procedure and rules based thereon. Meanwhile, it is clear that such reforms must be accompanied by an improvement in the administration of the Public Debt Offices, and as we shall show, will be greatly facilitated by the amalgamation of the three Presidency Banks under the arrangements as laid down in the main and subsidiary agreements with the maintenance of the Public Debt books and accounts, including those relating to securities, the interest whereof is payable in the Bombay and Madras Presidencies centralised in the Public Debt Office at Calcutta, the work done by the Public Debt Offices at Bombay and Madras being very much more restricted in character and practically confined to the payment at the presidency town itself. The subsidiary agreements contain, in fact, a provision that the Bank of Bombay and Madras shall not supervise or audit any such transactions occurring at the District Treasuries and their Presidencies. Again, as regards the renewal of securities, which in this country, owing to the form of security in which the Public Debt is largely held, constitutes an important part of the current work. The work of those two Public Debt Offices is in practice confined to the renewal of clean paper owing principally to the fact that, under the subsidiary agreements two-thirds of the renewal fees go to the Bank of Bengal, even though the renewing office may incur the responsibility. Without going into further details it is sufficient to say that, as a result of the present system, every piece of script is borne on the registers of the Calcutta Office and practically every transaction relating thereto has to come to that office for audit account or some other purpose. This excessive centralisation resulted in something approaching a break-down at the Calcutta Office during the issue of the 1917 War Loan, and it was largely for this reason that in the following year we introduced the system of issuing script to the applicants over the counter at certain Government Offices and at the Head Offices and Branches of the Presidency Banks. Even with this relief, however, the work at the Calcutta Office has remained very congested, and with the growth of the public debt the position grows steadily worse. From the point of view of the general public also it is undoubtedly inconvenient and tiresome, whenever they have occasion to renew

their securities, or when any question arises regarding them, to have to deal with a district office.

So long as the three Public Debt Offices are managed by separate institutions, any radical decentralisation of the public debt administration is difficult, if not impossible. Once however, the amalgamation has taken place and pecuniary considerations between the three banks have been eliminated and we have to deal with a singly managed institution, a considerable measure of decentralisation will become possible. As soon as the necessary arrangements can be made for the staff and accommodation at Bombay and Madras, we contemplate the gradual splitting up of the accounts and the registers relating to our various loans and distributing them between the three Presidency Public Debt Offices which will then conduct all businesses connected with the securities held in their respective territories. This measure will, we hope, represent only the first step in the direction of decentralisation. The changes in the law which you have now under your consideration will enable a good deal of the work connected with small holdings of securities to be conducted in the districts in which they are held, and in course of time, as the new Bank establishes in every district, it should be possible for the majority of up-country holders to put through at their district head-quarters all business connected with their securities.

#### **Abolition of the Reserve Treasuries.**

Another very important feature of these proposals, which is beyond a mere amalgamation of the three Banks, but which, in our opinion, is not feasible without it, is the abolition of the reserve treasuries. You have already agreed to this proposal, subject to such safeguards as we may recommend. In view of the fact that the new Bank will be entrusted with the greater part and eventually, when branches are established in every district headquarters, with the whole of our Indian balances, the extent to which Government might justifiably leave their funds with the Presidency Banks, thereby releasing money for the use of trade, is a question which has been vigorously canvassed from time to time, particularly since the establishment of the Reserve Treasuries in 1876. We do not think it necessary to encumber the present reference by an examination of the arguments put forward on one side or the other in previous controversies and discussions. The proposal has been accepted by you in principle, and moreover, events have moved with such rapidity in recent years and the pressure of war conditions of the problem have fundamentally changed the banks and ourselves to realise so clearly the practical benefit of a common policy amounting

almost to a pooling and the issues as previously drawn have become obsolete. A consideration of the safeguards which should be taken from the new Banks is, however, so closely connected with the whole question of our future relations with it, that we think it desirable to refer briefly to certain observations which were made regarding this matter by certain high authorities at about the time that the scheme for a Central Bank was under discussion (1899-1901), as those observations may fairly be taken as indicative of the official attitude towards this question both then until fairly recently.

In the course of a speech in the Legislative Council on the 1st September, 1899, when introducing a Bill to relax slightly the restrictions imposed on the business of the Presidency Banks, the finance member, Sir Chinton Dowkins said: "The Presidency Banks depend to a quite exceptional degree for their cash balances on the Government account. As Sir J. Westland showed in the busy season, nearly 80 to 90 per cent of these balances are supplied from the Government, a fact, which added to the fluctuations in the rate of discount, may make us ask seriously how far the Presidency Banks have sufficient capital to allow of the absorption of the resources in their command in enterprises, the securities of which might not be easily realisable. Again, the circumstances of India are peculiar. In England, if the Government were suddenly in need of money and the Bank of England had locked up the Government balances, it would not be of serious consequence. Money could be procured from a dozen other different quarters. In India this would not be possible and indeed we have a historic example in the embarrassment which the inability or reluctance of the Banks to produce the money deposited with them brought upon Government when confronted with the sudden emergency of the Orissa famine,"—and on the same occasion Lord Curzon said: "The Presidency Banks are not like the ordinary banks. No relaxations of restrictions, even if such were possible in an extreme degree, could make them so. They differ because the bulk of their cash balances or what I suppose I may call their loanable capital is supplied by Government and because if we subtract this at any given moment, they are not as a rule in possession of sufficient independent capital to enable them to conduct operations on a large scale. The Government, therefore, is under a peculiar responsibility for these Banks, and we are bound to enforce special regulations for the protection and the security of the balances which we ourselves have provided." The accuracy of the above observations so far as they related to the dependence of the Presidency Banks upon the Government funds, was at once challenged by the Banks, and we have thought it desirable to examine with reference to the present question of safeguards not only the extent

to which the Banks are in the present conditions dependent on Government deposits, but also the extent to which their resources will be augmented and their responsibilities to us increased when they are entrusted with the whole of our Indian balance.

The enclosed statement (enclosure 2) gives the average percentage of Government's deposits in the Presidency Banks to their capital and reserve, to their total working capital (*i.e.*, capital reserve and deposits) and to their cash balances during the last seven quinquennia. It will be seen that until the War the Presidency Banks were dependent to a steadily diminishing extent upon the Government funds left with them, but that during the War, as a result of the policy already referred to and regarding which more will be said hereafter, the percentage of Government deposits to the working capital and to cash was higher than at any time during the previous fifteen years. The diminishing extent to which the Presidency Banks have during the past thirty years depended upon their use of Government funds due to the great increase in their private deposits as shown by the figures in the statement (enclosure 3) giving the Banks' capital, reserve deposits, and cash balances as on the 31st December for a number of years. It will be seen that the private deposits have grown from 8 and half crores in 1880 to 12 and three fourth crores in 1900, 32 and one-third crores in 1910 and 36 and half, 40, 38 and half, 44 and three-fourth, 67 and three-fourth, and 51 and half crores in the six years 1913 to 1918 respectively, and that the Government deposits have not increased in anything like the same degree.

The proportion in which Government funds have been placed with the Banks or retained in the reserve and other Treasuries is also relevant to the present question and can be judged from the figures for the past eight years given in enclosure 4, the figures for each year being an average of the figures for the end of each month. It will be seen that from 1914-15 onwards we have left a much higher proportion of our total cash balances with the Banks, the amount locked up in the reserve treasuries being correspondingly smaller. This policy was deliberately adopted during the war, as much as in our own interests as in those of the banks and of the money market in general, and was rendered possible by the intimate and friendly relations which have in recent years prevailed between the banks and ourselves. It would in any case have been necessary for us to stand behind the Presidency Banks in the event of a serious run on these institutions arising from fancies or war alarms to which the Indian market was peculiarly susceptible, and it was at the same time vital to us to take such steps as were in our power to secure the money market against

the strain to which our war finance must have exposed it. While this policy of entrusting the Presidency Banks with a much larger share of our funds was thus primarily enforced on us by the war conditions, its success have been one of the principal financial lessons of the War, and has convinced us of the desirability and safety of making it a permanent feature of our relations with the banks. It has during the war kept the Indian money market in a state of comparative ease and has removed to a considerable extent the previous large seasoned fluctuation in the Bank rates during the year. It has thereby led to the further result, which was one of the main objects which we had in view, namely that we have been enabled to finance our own war expenditure as well as a very large disbursements on account of the same by means of treasury bills, supplemented by ways and means, advances from the Presidency Banks to an extent which previous to the war would have been regarded as inconceivable. On 31st March, 1918, the amount of Treasury Bills outstanding was Forty three and half crores and on the same date in 1919 was Forty nine and one-fourth.

In August, 1918, our advances from the Banks of Bengal and Bombay amounted to 17 crores. There can be no doubt, moreover, that the successes of the War Loans of 1917 and 1918 were facilitated by the ease of the money markets due in a large measure to the fact that the large sums which our borrowing operations took off from those markets were not locked up in the reserve treasuries, but were kept with the Presidency Banks.

The question naturally arises to what extent an amalgated bank bearing the responsibility of making Government funds available whenever required could have made use of the reserve treasury funds for ordinary banking purposes. The following figures show that the average amounts retained in that reserve treasuries during the busy seasons (November to April inclusive) of the past eight years was : 1911-12 lakhs 403, 1912-13 lakhs 1024, 1913-14 lakhs 708, 1914-15 lakhs 338, 1915-16 lakhs 375, 1917-18 lakhs 308, 1918-19 lakhs 196. It will be seen that during the busy seasons of 1912-13 and 1913-14 large sums were retained in the Reserve Treasuries, and it can scarcely be said that they were likely to be needed in the near future for Government requirements. As regards more recent years, however, it is clear that the amount of extra resources made available would have been comparatively small. On several occasions during 1918-1919 there were treasury balances in fact under a crore. Now in the present conditions it would be difficult if not impracticable to empty the Reserve Treasuries completely, one reason being that it is always necessary to retain a certain balance to meet the currency trans-

fers granted to the public which involves a payment from the Reserve Treasury into Currency at the issuing centre. So long as the Banks at the issuing and paying centres are separate institutions, the Reserve Treasuries are practically a necessity with an amalgamated bank. However, this would not be necessary as, although the notes would have to be paid into currency by the Bank at, say, Bombay, the currency would pay notes into the Bank at Calcutta, so that the Bank's total cash balance would on the whole be unaffected. On the whole, it is probably safe to say that the abolition of the Reserve Treasuries would in normal times result in an appreciable accretion to the Bank's resources.

It by no means follows, however, that an amalgamated bank entrusted with the custody of Government funds would be able to use the whole of these freely for ordinary banking purposes. As regards the funds kept in those district treasuries where there is at present no branch of the bank, it is now the practice to limit these to the minima necessary to provide for near disbursements, and the new Bank would not be able to count on any substantial usable surplus therefrom, and as regards the Reserve Treasuries themselves the demands on these are apt to be sudden and large, and although they will doubtless be necessary to make at short notice payment into currency on account of some corresponding adjustments elsewhere, such as a withdrawal from the currency reserve in London, at the present time the Reserve Treasuries act as a valuable buffer between sudden and unforeseen Government demands and the Presidency Banks. Each balances the other and although no doubt the former ultimately react on the latter, it is frequently the reserve Treasuries that receive the first shock. In one of the memoranda presented by Sir Lionel Abrahams to the Chamberlain Commission it was assumed that for Government purposes an emergency reserve of one and half crores would have to be maintained. Experience can alone show how much of their resources the banks must keep in the form of additional cash if the reserve Treasuries be abolished. During the War the Controller of Currency has frequently been obliged to run things very fine in order not to withdraw cash from the Presidency Banks at a time when it would have been undesirable to tighten the money markets. There seems little doubt that with no Reserve Treasuries the bank will have to keep a somewhat higher proportion of cash to the liabilities than would otherwise be the case although this consideration will in practice be to some extent counter-balanced by the pooling and consequent economy of the resources of the four parties.

The foregoing examination of this portion of the amalgamation scheme will have given some idea of the extent to which the new

Bank will bear a large aggregate responsibility in the matter of the custody of public funds than is the case with the Presidency banks as at present constituted. It remains to consider what further safe-guards is it necessary to take from the new Bank, over and above those which are contained in the present Act, the general character of which we do not propose to change. It has been shown that during the last few years, if the Reserve Treasuries had not been in existence, the amount of extra funds lying with the Banks would have been comparatively small owing to the fact that money was deliberately not allowed to accumulate in the Reserve Treasuries. We feel, however, that the circumstances of the last few years have been exceptional. They were years of war when it was of vital importance to keep the money markets as easy as possible in order to facilitate the financing of our war disbursements when it would have been justifiable to take some risk, should a risk have been thought likely to follow therefrom, and when, moreover, there was undoubtedly a general feeling on the part of the Directors and executive authorities of the Banks that in war time patriotism demanded their working hand in hand with Government to the greatest possible extent. We were thus enabled to keep intimate touch with the general policy which was being adopted by the banks and to assure ourselves that the exceptionally large balances which we were keeping with them were being used in the best interests of the country. With inevitable changes in the personnel a continuance of this personal touch cannot be guaranteed. Furthermore with the definite abolition of the Reserve Treasuries, we shall lose the inherent power which we at present possess of withdrawing our deposits from the Banks in excess of the guaranteed minimum at any time, which power has placed us in a very strong position to exercise an informal influence over their general policy. We are of opinion, therefore, that it is desirable for us to have a representative, who would naturally be the Controller of Currency, upon the Governing Body of the Bank whose function and duty it would be to keep us in touch with all important developments in the Bank's general policy, and who would possess the statutory power (which we anticipate would rarely if ever require to be exercised) of holding up action on any matter of high importance as affecting the interest of Government or the safety of its balances pending our orders thereon. We should ordinarily be averse to a Government official being concerned in any way in ordinary banking transactions, and we have no desire to repeat the former experiment when Government Directors were attached to the Boards of the Presidency Banks. The functions of the Central Board as defined in paragraph 4 to 6

of the Directors' memorandum will, however, be of such a general nature as to obviate that objection. In the case of an ordinary private institution official representation on the managing body might well be regarded as of very doubtful expediency, owing to the fact that in the eyes of the public there would be laid on Government, rightly or wrongly, the moral responsibility for its stability and good working, but in the case of the proposed Imperial Bank that responsibility cannot in practice possibly be evaded. The mere fact that it will be entrusted with the whole of our funds will make its stability a matter for the State of the gravest concern and we do not see what useful purpose will be served by any attempt to obtain security by less direct methods or to avoid a frank recognition of the interests involved. We understand that the banks themselves are of opinion that the presence of an experienced financial officer of Government on the Central Board will conduce to smooth working and will moreover be of considerable assistance to the bank by ensuring that the latter shall be kept fully and rapidly informed of Government requirements in the matter of funds and of the way in which Government's financial policy will react upon its own.

#### Branch Office in London.

We now turn to the question of the establishment of an office of the new bank in London, the proposals regarding which are set forth in paragraphs 8 and 9 of the bank's memorandum and which is a feature of the scheme to which they attach very great importance. We have already pointed out that the proposed amalgamation is a measure of consolidation which is not inconsistent with and would indeed be a necessary preparation for further development; it serves no useful purpose therefore to consider whether any particular feature of the amalgamation is or is not absolutely essential at the present stage; if the feature in question is not open to active objection and if the Banks attach importance to it, there seems no reason for making difficulties about it. This we consider is the situation as regards the London office. It is common knowledge that the Banks have long desired access to London and have consistently been refused it. The grounds set forth in the memorandum for renewing the proposal have been largely strengthened by the prospect of amalgamation, and in our opinion so far at any rate as they relate to the business described in paragraph 8 they are irresistible. We feel confident that you will agree that in the case of a national institution like the Imperial Bank of India the denial of a London Office which would be represented as dictated by excessive care for the interests of non-Indian concerns cannot be contemplated.



**Bullion Business.**

We do not think that any comments from us are needed as regards the items of business mentioned in paragraph 8 of the memorandum other than those dealt with in clauses (7) and (9). As regards the bullion business mentioned in clause (7) we are satisfied that the Banks have no desire to engage in such business as an exchange operation or in any way inconsistent with our general exchange and currency policy. What they have in mind is the buying and selling of bullion in normal times for consumption in the Indian bazars which, until the War, formed an important part of India's foreign trade. The business would be under your control and, subject as it would be to the important qualifications mentioned in the memorandum, we can see no possible reason why the new bank should not be allowed to undertake it.

**Competition with Exchange Banks.**

As regards clause (9) of paragraph 8 of the memorandum, it will be seen that the banks are willing to confine their exchange operations (other than those for their own constituents which are already permitted) to the rediscounting of Bill of Exchange, that is, in practice to dealings with the Exchange Banks alone and would, therefore, not compete with the latter in their ordinary business with the public. The Presidency Banks have, in the past, strongly resented their exclusion from competition with the ordinary exchange banks, and much might be said in favour of the view that such exclusion is not justified. We think, nevertheless, that on the whole the banks are wise in their decision to abstain from making any request to this effect in view of the vested interests which they would antagonise and of the fact that they are in India the Bankers of the Exchange Banks themselves who could not be expected to continue to remain their funds with and to disclose their position to a competition as restricted in the clause in question. The power to do this business would afford one means for the Bank to move its funds between India and London. We think, moreover, that in this respect the Bank would probably perform a useful function and might at times be of material assistance to the Exchange Banks in relieving them either in London or in India of surplus Bills which they might find it convenient to dispose of.

**Disposal of Surplus Balance.**

The further developments touched on in paragraph 9 of the memorandum deal with matters of more importance to yourself and ourselves. As regards the disposal of your surplus balances, we think that the new bank would be content to be given the same

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tion in the selection of the mercantile bills against which new notes will be issued and on the maturity of which they will be retired.

### Financial Adjustments.

We have very carefully considered what financial adjustment will be necessary between us and the Amalgamated Bank in view of the concession which it is proposed to confer upon it. Under the present agreements the Banks receive a certain lump and all payments (Bengal Rs. 43,600. Bombay Rs. 12,240 and Madras Rs. 12,000) for the conduct of Government business at their Head Offices, but receive no payments for such business done at their branches. They also receive remuneration at the rate of Rs. 2,000 per crore of public debt for the management of the Public Debt Offices. In consultation with the authorities of the three Banks, we have closely examined the question as to the *quid pro quo* which should be given to us in the shape of a share in the profits or otherwise as a return for the use of the whole of our Indian balances. Since 1913 the dividend-cum-bonus of the Bank of Bengal has been increased from 14 to 17 per cent. and that of the Bank of Bombay from 13 to 19, no increase having been made in that of the Bank of Madras. Owing to the general prosperity which India has enjoyed during the war and to the large increase in the volume and circulation of money in the principal markets, the profits of the Banks of Bengal and Bombay would doubtless have increased quite apart from their use of the Government funds entrusted to them. But we think it highly probable that this growth in profits has also been stimulated by the large amounts which you have deliberately retained with the Banks during the last few years. We have shown above that while as compared with recent years the amount of extra resources obtained by the new bank will be comparatively small, as compared with the earlier years the amount will probably be substantial and if these extra funds were to be lent out to the highest bidder there is no doubt that in the busy season we should be able to earn an appreciable amount of interest thereon. It might be argued, therefore, that there is every justification for the participation by the State in the profits of the Bank as, for example, by the payment to the former of interest upon the average amount of Government deposits above some specified sum or by a definite share in the profits after a certain dividend has been realised. There are, however, certain important considerations which weigh in the opposite direction. In the first place, as pointed out in paragraph 12 of the Banks' Memorandum, the undertaking to adopt a progressive policy in the matter of opening new branches will, there is little doubt, for some time result in a loss to the Bank on their

working. Those centres of trade, at which a branch is likely to show a profit in the near future, have to a large extent already been exploited by the three banks and as more branches are established a comparatively longer time must elapse before the opening up of the localities concerned will result in a business profit to the branches of the Bank established therein. If the banks were to remain separate institutions, and as at present constituted, it is highly improbable that in the interests of their share-holders they would be justified in opening more than a very few more branches. Secondly as we have already pointed out the possession of additional funds derived from the Government will entail additional responsibilities and it will be necessary for the new Bank so to arrange its policy as to maintain itself in a position to meet sudden and unforeseen demands which at present fall mainly upon the Reserve Treasuries. Thirdly it will be observed that the banks have refrained from stipulating for any fixed minimum for the total amount of Government's balances and it follows that by this pooling of resources the Bank will at certain times be using its own private funds for Government purposes.

For these reasons we feel that it is quite impossible to attempt at this stage to balance the account however roughly, and that the only practical course will be as suggested in the memorandum for no financial adjustment to be made or claimed on either side during the first three years of the Bank's working. At the end of that period it is probably that sufficient experience will have been gained to estimate how far the conduct of Government business has on the whole been profitable to the Bank and, should you approve this conclusion, we propose to review this question again at that time. We would, however, exclude from the above arrangement the public debt work to be performed by the bank for Government. As pointed out in paragraph 13 of the memorandum the cost of this work to the bank is capable of a fairly exact estimation and we propose, therefore, to continue the present remuneration as provided for in the agreement with the Bank of Bengal, subject to revision at the end of the above-mentioned period of three years.

In paragraph 16 above we have given our reasons for desiring to have an official representative on the Central Board of the Bank and we have, therefore, little to add to what is said in paras 4 to 7 of the memorandum regarding the constitution of the Governing Body and its relations with the Local Boards. To a large extent the Banks' proposals on this point are their own domestic concern and have only to add that they have been the result of considerable discussion and in our opinion are calculated to result in efficient

working and in the avoidance of friction between the various local interests concerned.

#### Proposed Increase of Capital.

As regards the proposed increase of capital we understand that the Bank recognise that there are some advantages from the point of view of prestige of having no uncalled capital. They feel, however, that the circumstances in which the new bank will be inaugurated outweigh this general consideration. There will, certainly for some time to come, be no necessity to the employment for the 750 lakhs of fresh capital power to issue which it is proposed to take and the banks prefer and we agree with them to call up only so much as can profitably be employed at once leaving the Governing Body power similar to that possessed by the Directors under Section 14 of the present Act to make further calls. As new branches are established it will be necessary from time to time to call up new capital and we think it desirable that the new act should contain a sufficient margin for this to be done without special reference to the shareholders on each occasion.

#### The Modification.

Finally, we have to offer some remarks upon the modifications proposed by the Banks in paragraph 14 of their memorandum on the restrictions at present imposed upon their business. The original restrictions imposed by the Presidency Banks Act 1876, have subsequently been relaxed from time to time in one or two directions though their general character has not been substantially modified. Of the further modifications now proposed, Nos. (6), (8) and (9) are upon the proposals regarding the establishment of a London Office and need not be further discussed here. As regards the remainder it is claimed by the Banks that these do not fundamentally change the character of the present restrictions and subject to certain qualifications we think that this is correct. Our views of the proposed modifications other than the three already mentioned are as follows. Items (1) and (2), we do not see any objection to the Bank being allowed to do business of the kind mentioned, which is, we think, essentially similar in nature to the other kinds of business enumerated in Sec. 26 of the Act. Item (3). We understood that this item was inserted because one of the Presidency Banks felt some doubt as to how far the ways and means of advances given to us from time to time during the past two years were covered by the existing proviso. We shall examine this point further when the new legislation comes to be drafted, but as at present advised we are inclined to think that the expression Secretary of State for

India in Council covers the Indian Governments subordinate thereto. Item (4). If the new clause here proposed were intended to allow the new Bank to embark wholesale upon the business of making advances upon shares, we should be unable to endorse it, as we consider that the present inability of the Presidency Banks to tie up their resources in such business is a most valuable safeguard not only from the point of view of ourselves and of the other Banks and members of the general public who form the Presidency Banks' regular constituents, but also as an indirect means of checking undue speculation in the principal share markets. We understand, however, that the banks themselves have no intention or wish to engage regularly in business of this description but they have pointed out to us that there have been occasions which may possibly secure when it would have been of public advantage if the banks had had this power in reserve and could have been in a position to give assistance to sound concerns which did not happen to possess sufficient securities of a kind upon which the Banks had power to make advances. Such a power, it is urged, would also be useful when, for example, the Bank had given advances on some authorised security such as cotton or jutes and when owing to fall in prices the margins had run off. In such cases it would be desirable that the Bank should have power to accept fully-paid shares and debentures of companies rather than have to force the borrower to repay a sufficient amount of the loan to restore the margin. It is occasions such as these that the Banks have had in mind in suggesting the new clause in question and we admit that a strictly limited power to advance on shares would at times be useful and not open to objection. Nevertheless we consider it of very great importance that there should be no sort of ground for suspicion in the public mind that the bank was being allowed by a side-wind to convert the present important restriction in this matter and no loophole whatever for any officer of the bank to use such a power to advance regularly on shares. We propose therefore when drafting the new legislation to restrict such advances to cases where the shares, debentures, etc, are taken as collateral security. Item (5). The liquid assets here mentioned would be stocks of raw cotton or jute under process of manufacture, of stocks of coal held by a mill, etc. We think that the proposed clause is probably covered by item (2) and by sub-section (5) of the present section 36 and we reserve this point for further consideration in drafting the new Act. Item (7). It would frequently be of advantage in up-country districts where there is no Administrator General or official trustee for the Bank to act as administrator or trustee of estates. This would be purely agency business done on commission and would not, of course, represent a charge on the Banks' resources.

Item (10). Here again we should deprecate any wholesale removal of the present restriction which prohibits the banks from advancing money on the security of immovable property and we understand that this is not the intention. For, the reasons which have already been given under item (4) we think that though such a power might be useful in certain cases, such security should only be accepted as collateral. Item (11). We think that the present limit of Rs. 10,000 is too low and that it is desirable to make the present provision more elastic by the omission of any definite amount in the Act. If you approve of this we propose to impose a limit of Rs. one lakh in the bye laws made with our approval.

#### Consulting the Share-holders.

We now request your approval to our authorising the Directors of the three Banks to place the scheme before their shareholders and, as soon as the latter's consent has been obtained, to your undertaking the legislation necessary to give effect thereto. We propose that the new Banks Act should follow the general lines of and cover approximately the same ground as the Presidency Banks Act of 1876, that is to say, it will *inter alia* define the constitution of the Bank, of its Governing Body, the Central Board and of the Local Boards subordinate thereto. It will, as at present, define the nature and limitations of the business which may be undertaken by the Bank and will contain provisions wide enough to authorise the Bank to undertake such business in London as you may eventually give it, together with any additional duties such as the management of the Paper Currency as may in due course be entrusted to it in India. We think it only fair to the Bank that the custody of our funds should be guaranteed to it for a reasonably long period such as ten years, and we propose to make statutory provision accordingly as well as for the presence of the official representative on the Central Board during such period, the whole arrangement being subsequently terminable on a year's notice from either side. The exact functions and mutual relations of the Central and Local Boards will be defined in statutory bye-laws to which as at present our sanction will be required, while the remaining matters arising out of the relations between the Bank and Government will be regulated by a formal agreement.

We have the honour to be,

Sir,

Your most obedient and humble servants,

(Sd.) Chelmsford, G. R. Lowndes, C. Sankaran Nair, R. A. Mant,  
G. S. Barnes, W. H. Vincent, H. F. Howard, C. C. Monro,

### Note

The proposals outlined above eventually culminated in the passing in September 1920 of the Act 47 of 1920 "An Act to constitute an Imperial Bank of India and for other purposes". Under this Act (see pp. 234, 300) the three Presidency Banks will be merged in the Imperial Bank of India as from 27th January 1921, the capital of which is to be ₹11,25,00,000 of which half will be paid up at once.

The Bank will be controlled by a Central Board and will have Local Boards in Calcutta, Bombay, and Madras : it will also open an Office in London. The Bank will act as the sole Banker to and be custodian of the Treasury and cash balances of the Government of India and the various local Governments.

The Bank has undertaken to open 100 new branches within 5 years, Government having the right to determine the location of one in every four.



# The Public Services Commission

## Organisation and Recruitment

*Govt. of India Resolution—December 1920.*

*Organisation* :—It has been decided as recommended by the Public Services Commission to maintain the existing organisation of the Civil Services. The division into an Imperial Service and a Provincial Service based on the work for the performance of which the two services are recruited, and not on any artificial distinction. The evidence recorded by the Commission disclosed no desire for any change. In future the Imperial branch will be known as the Indian Civil Service and the Provincial branch will bear the name of the province in which its members are serving, *e. g.*, Bengal Civil Service.

The recruitment of military officers to fill civil service posts in Burma will cease from the date of the present resolution.

A revised list of superior appointments is annexed to the resolution. It has been approved by the Secretary of State, but it has been compiled primarily for the recruitment and does not purport to be final in any way.

*Methods of Recruitment* :—Recruitment for the Indian Civil Service (including appointments to posts ordinarily held by members of the Indian Civil Service) will in future be effected by the following methods : (1) An open competitive examination in London ; (2) a separate competitive examination in India ; (3) nomination in India ; (4) promotion from the Provincial Civil Service ; (5) appointment from the Bar.

*Open Competitive Examination in London* :—This examination will be the main channel of entry to the Service, and will be open to all as heretofore, subject to the reservation that in future Indians successful in this examination will not be allotted to Burma nor successful Burmans to India. The exact curriculum of future examination cannot at present be announced, as the details of the syllabus are still under consideration. But the Secretary of State has been in consultation with the Civil Service Commissioners and with the Universities in the United Kingdom with regard to the age of entry and the period of probation, and has arrived at the conclusion that it is in the best interests of India that the age-limits for admission to the examination shall be 21 to 23 (reckoned from 1st August in the year in which the examination is held), and that the period of probation shall be two years. Before arriving at this decision, the Secretary of State in Council carefully considered other possible alternatives, and in particular, (a) the pro-

posal of the Royal Commission on the Public Services in India that the age-limits should be 17 to 19 on the 1st January, followed by three years' probation, (b) the proposal that the age limits should be 17 to 20 followed by two year's probation. The reasons for and against the various alternatives are succinctly stated in the extract from the Report of the Civil Service Commissioners' which is appended to this resolution. In deciding on the adoption of age-limits of 21-23, followed by two years' probation, the Secretary of State in Council has been influenced by the facts (1) that it is the resolution which was favoured by the Government of India in referring the question for consideration in January 1919, and by a majority of the local Governments in reply to that reference, (2) that it is recommended by the Civil Service Commissioners who are his statutory advisers in such matters and (3) that the Universities in the United Kingdom are practically unanimous in favour of it. Moreover, public opinion in India is decidedly against the adoption of the school-leaving age-limits, which would in practice exclude many Indians from the open competition in England and in favour of the higher limits, as was evident from the discussion in the Imperial Legislative Council on the 24th September 1917, on a resolution deprecating acceptance of the Royal Commission's proposal. The decisive consideration is the paramount necessity of securing for the Indian Civil Service Officers of the highest possible quality. For this, it is necessary to obtain men who have completed their University education and have had, in addition, a thorough special training, such as a well-organised course of probation lasting for two years affords. The details of the course of probation are now under consideration by the Civil Service Commissioners, but it has been decided that Law and Jurisprudence shall form an important part of the training. The study of Indian Languages (vernacular and classical), of Indian History and of Economics, with special reference to Indian conditions, will also be included in the course. Details both of the probationary course and of the syllabus of the open competition will be announced later when they have been finally settled.

*Separate Competitive Examination in India:* This has been accepted as the main source of Indian recruitment. The institution of such an examination is provided for by Section 97 of the Government of India Act. The conditions under which the examination will be held have not yet been determined by the Secretary of State, who is in consultation on this subject with the Civil Service Commissioners. They will be announced later. But it has been decided that the age-limits will ordinarily be 21 to 23 on the 1st August of the year in which competition is held as in the case of the London examination. The candidates thus selected (as well as any who

may be nominated in India under paragraph 8 of this resolution) will be sent to the United Kingdom to join the candidates selected at the open competition in London in their two years' course of probation. It has been decided, of the recruits selected in India for the Services (exclusive of those promoted from the Provincial Services, or directly appointed from the Bar) at least 67 per cent will be obtained through this examination. Nomination is provided for in Section 97 (b) of (8) of the Government of India Act in order to secure to some extent representation of the various provinces and communities in India. It will not of necessity take place every year, but only when the results of the competitive examination in India fail to give the representation required. The following procedure will be adopted : When the number of vacancies to be filled in India in any year by direct recruitment (*i. e.* exclusive of promotions from the Provincial Service and appointments from the Bar) have been settled, 67 per cent of these will be announced as open for competition. If the distribution of accesses in the examination turns out to be such as will meet the requirements of the various provinces and communities, resort to nomination will be unnecessary. The vacancies held in reserve will be filled as far as possible by selection from among the candidates who sat for the competitive examination and attained certain qualifying standard. Failing this, they will be filled by nomination. Rules relating to nomination are being framed under Section 97 (6) of the Government of India Act and will be announced as early as possible.

*Promotion from the Provincial Service :* The Commission recommended some reduction in the number of listed posts, but the Government of India have decided not to reduce the chances of promotion open to officers of the Provincial Service, until they are in a position to appreciate more accurately than is possible at present the effect of the rules now framed regarding direct recruitment to the Indian Civil Service in India. It is probable, indeed, that in some provinces the number of such appointments will actually be increased. Officers promoted from the Provincial Civil Service to hold posts ordinarily held by members of the Indian Civil Service will in future have the same opportunities of promotion as those who have been directly recruited in regard to their status *vis à vis* the regular members of the Indian Civil Service. The Government of India have decided to institute, or where they exist to retain, Provincial Commissions on the lines recommended by the Public Services Commission in paragraph 3 of annexure of their Report, and to include in such Commissions not only all members of the Indian Civil Service however elected, but also promoted members of the Provincial Civil Service and members of the Bar appointed

to hold superior appointments ordinarily held by members of the Indian Civil Service. The two latter classes of officers cannot be admitted to the Civil Service itself, but will, from the date of their appointment, take rank with Civil Service Officers and will be eligible with them on their merits for all posts on the Civil Service grade.

*Appointments from the Bar:* Local Governments already have power under the rules laid down in the Home Department Notification No 596, dated the 21st June, 1918, to appoint persons who are not members of the Provincial Service up to one-fourth of the total number of listed appointments. This power will be utilised by them as an experimental measure to appoint District Judges direct from the Bar. It is hoped ultimately to fill no less than 40 posts in this way, should qualified men be available. Members of the Bar will, however, be appointed to posts in excess of 25 per cent of the total number of such appointments only as new posts are created and with due regard to the claims of existing members of the Civil Service. Thus the right of these officers will be duly safeguarded as was expressly provided for by Section 36 (2) of the Government of India Act, 1919. At the same time there will be no reduction in the number of posts open to men promoted from Provincial Civil Service. Should the experiment prove a success, (and on this point the opinion of High Courts will be ascertained from time to time) the full number i.e., 40 will eventually be made available for persons from the Bar. For the purposes of these appointments Vakils and Advocates of High Courts and Pleaders of Chief Courts will be eligible as well as Barristers.

*Percentage of Indians in the Service:* After full consideration with the approval of the Secretary of State, the Government of India have decided to adopt the proportion suggested in paragraph 317 of the Joint Report of the Indian Constitutional Reforms. This proportion of 33 per cent, rising by one and half per cent annually for 10 years to a maximum of 48 per cent. will be taken as an all-round figure to cover the total Indian recruitment from all sources, including promotion from the Provincial Service and appointments from the Bar. The number of Indians to be recruited in India by examination and nomination will be fixed each year after taking into account the number of Indians recruited in other ways, including the open competition in London. The direct recruitment of Indians for 1920 has been already made under the rules issued under the Indian Civil Service (Temporary Provisions Act) and the candidates selected are already undergoing their probation in England, although the candidates under these rules were selected at the end of 1919. The calculation of the number to be appointed was based on the consideration of vacancies that had accumulated from 1915 to 1920 inclusive.

These candidates were selected by nomination. It was intended that any further appointments to be made in India should, so far as possible, be effected by means of a competitive examination as explained in the paragraph above, but the Civil Service Commissioners who are engaged in working out the scheme for this examination have reported that it will not be possible to hold the examination in 1921 in time for candidates selected to commence their probation in England in October, 1921. It has been decided, therefore, that the number of Indians required to be recruited for 1921, accordingly to the percentages approved above, should be obtained by nomination as in 1919. The rules required to effect this are under consideration and will be published as soon as possible. It is hoped that the scheme of examination in India will have been settled and the rules under Section 97 (6) referred to in paragraph 8 above approved in time to enable the first competition in India to be held in the cold weather of 1921-22, and the candidates selected to commence their probation in England in October, 1922.

*Training in India:*—Subject to the general considerations mentioned below full discretion is left to Local Governments and Administrations in the matter of framing rules for departmental examinations and training. On arrival in India, officers should be trained under the supervision of a suitable District Officer, who should not only have the special qualities required for training junior officers, but also the time to devote to this object. Much valuable assistance can often be given him in this matter by a senior assistant. For the first year too much court work should not be prescribed, and departmental examinations should be more practical. The test of proficiency in law should be more and more limited to an examination of a man's ability, with the Act and Rules at his disposal, readily to find the law governing a particular case and to apply it intelligently. The test in the vernaculars should be stiffened and should be directed chiefly to ensuring that officers are able to converse in them with fluency and to read and write them with accuracy.

*Special Training of Officers for the Judicial Branch:*—At any stage between five and eight years service as soon as they are so selected, they should undergo a period of training for 18 months in the posts of Munsiff and subordinate Judge or Additional District Judge and thereafter, if the High Court so recommends, they may be granted study leave to the United Kingdom for the purpose of reading in Barristers Chambers and passing the Bar examinations under such rules as may from time to time be prescribed by the Government. Ordinarily, this leave will not be granted to any officer after the 12th year of service.

# Govt. of India Despatch on the Burma Reforms Scheme

The following despatch to the Secretary of State relating to a new constitution for Burma was published :—

*No. 1-General, dated Delhi, the 15th March 1920.*

*From—His Excellency the Viceroy and Governor-General of India in Council,*

*To—The Right Honourable Edwin Montagu, His Majesty's Secretary of State for India.*

We have the honour to lay before you our proposals for a new constitution for Burma.

2. In paragraph 198 of the Joint Report the problem of Burma's political evolution was set aside for separate and future consideration. The Authors of the Report took the view that Burma was not India, that its problems were altogether different, and that it was impossible to say how far their proposals would be applicable to Burma till the Government and the people of that province had had an opportunity of considering them. On the publication of the Report the Lieutenant-Governor of Burma took steps, by means of informal conferences, to ascertain the views held in Burma regarding the proposals of His Excellency and the Secretary of State, and subsequently in a resolution, which forms an enclosure to this despatch, he published for discussion and criticism a tentative scheme of reforms. This resolution was issued in December 1918 and in June of the following year, after consideration of the opinions which the scheme had elicited, the Lieutenant-Governor submitted to us his formal proposals for a new constitution.

3. These proposals are fully set out in the local Government's letter of the 2nd June 1919, of which we attach a copy. They included a wide extension of local self-Government, and the establishment of a Legislative Assembly in which the elected element would have a substantial majority. Elections to the Legislative Assembly were to be direct, except in the case of the rural representatives who were to be elected by the District Councils. The power of the Governor to ensure the passing of legislation considered to be of essential importance was to be secured by providing that

measures certificated by the Governor should become law unless opposed by a majority of two-thirds of the Assembly. The resolutions of the Assembly on the budget were to have the effect only of recommendations to the local Government, but it was contemplated that in practice the local Government would not disregard the clearly expressed wishes of the Legislature except on matters regarded as essential for the maintenance of peace and security. The most distinctive feature of the scheme, however, was the proposal for the creation of a system of Boards which were to exercise some of the powers now vested in the local Government. There were to be four such Boards, one for home affairs, one for local self-government, one for development and one for revenue and finance. Each Board was to be presided over by a non-official President chosen, except perhaps in the case of Europeans, from the non-official members of the Legislative Assembly. The other members of the Boards were to consist of Heads of Departments and Secretaries to the local Government. The official members were to exercise without reference to the Presidents the independent powers which they possess under the existing system, but in all matters, which lay beyond the powers appertaining to the Head of the Department, no action was to be taken without the cognizance and participation of the non-official President. The decisions of the Board were to be in accordance with the opinion of the majority, but the non-official President was to be empowered to carry any case to the Lieutenant-Governor and to ask for his permission to over-rule the Board. It was recognized that the Boards contained no element of responsibility to the legislature. It was urged, however, that the Assembly would be able to express their disapproval of the administration of a President by an adverse vote, and that in this way a gradual advance towards responsible government would be secured. As regards its relations with India, separation was declared to be the ultimate goal to which Burma should look forward and, partly as a fitting recognition of this fact and partly with the object of retaining for the provincial legislature and administration the ablest of her people, it was proposed that Burma should not be represented on the Indian Legislative Assembly. On the Council of State the Lieutenant-Governor asked for three seats, one of which was to be held by an officer of the Burman Commission attached to the Government of India to advise on all matters affecting the interests of Burma. It was claimed for this scheme that it was a preliminary advance towards responsible self-government; that it paved the way for further progress with the growth of experience and capacity amongst the people; and that it set the course of development of Burma and its people towards the realization of a separate national entity within the British Empire.

4. We recognized the great care and thought which had been expended on these proposals and, for reasons which we shall explain later, we took no objection to them on the ground that they differed profoundly from the scheme which has been adopted for the Indian provinces. Nevertheless there were features in them which we felt unable to accept. We thought that the system of Boards would prove to be an unwieldy method of Government and further that it was open to the criticism that it made no real advance in the direction of giving Burmans any power over the administration. The powers to be exercised by the Boards would be those which were delegated to them by the Head of the Government and the Head of the Government was to retain authority to withdraw any such powers from the Boards at his direction. We doubted whether Burman opinion would be satisfied without a Governor in Council since any substitute would be regarded as of inferior dignity ; and we were inclined to favour the establishment of an Executive Council, both on this ground, and on the ground that it would give the Burmans some measure of administrative control at the outset and that it would pave the way towards a further advance by the conversion, when the time came, of the non-official Councillors into Ministers. As regards the Legislature, we accepted the process of indirect election proposed in the case of the rural members as inevitable in the circumstances ; but we thought that the procedure for ensuring the passing of Legislation considered to be essential by the Government should be the same as in the case of the provincial legislative councils in India. We communicated these criticisms to the Lieutenant-Governor and asked for a further expression of his views.

5. The further views of the Lieutenant-Governor were submitted in a letter, dated January 22, 1920, of which a copy is attached to this Despatch. In the interval the Report of the joint Committee had appeared and the Lieutenant-Governor reviewed his scheme in the light both of our criticisms and of the recommendations of the Committee. He considered that the dualistic system adopted for the Indian provinces was quite inapplicable to political conditions in Burma, and he was also opposed to the establishment of an Executive Council. He urged that there were no persons who could be selected to fill the independent position of ministers, and that even greater difficulty must attach to the selection of Executive Councillors to deal with both reserved and transferred subjects. He recognised, however, that the constitution of the Boards proposed by him gave an appearance of the President being always confronted with a majority of officials, and proposed accordingly, while retaining four Boards as an essential and convenient means of



administration, to reduce the membership of each Board to two : a non-official who would be the first Member of the Board and would also be termed Minister, and an official who would be second Member of the Board. He recommended that the Head of the province should be empowered to appoint at the outset any persons, whether elected members of the Legislature or not, but proposed that at least three of the subsequent appointments should be made from the elected members of the Assembly. He claimed for this modified system that it would employ and train in responsible posts a maximum number of non-officials ; that it enabled a gradual transfer of power to be carried out by means of further delegations ; and that when conditions were ripe for this advance, it admitted of easy transformation into a constitution of Ministers or a constitution of Executive Councillors or a constitution which should include both Executive Councillors and Ministers. He adhered to his original proposal that, since Burma was unable to provide a suitable number of representatives in the Legislative Assembly, it should be excluded from this body and suggested an arrangement under which Indian legislation would be extended to Burma after consultation with the Government of Burma and the Burma Legislative Assembly. On the Council of State he again asked that Burma should be given three representatives of whom one should represent Burman Commerce. Finally, he proposed that the title of the Viceroy should be altered to that of "Governor-General of India and Burma.

6. We recognised that these proposals were an improvement on those originally put forward by the Lieutenant-Governor. We could not, however, admit that our objections had been fully met more particularly in regard to the form of executive government suggested. The system of Boards still appeared to us to be open to the criticism that at bottom all real power was restrained in the hands of the Head of the Government. We were not convinced that the establishment of an Executive Council was impracticable and were unable to accept the proposals that Burma should not be represented on the Indian Legislative Assembly. We felt, however, that it would be an advantage if the whole position could be discussed with the Lieutenant-Governor and we therefore invited Sir Reginald Craddock to Delhi so that we might have an opportunity of personal consultation with him before formulating our final proposals. We have now had a full discussion with the Lieutenant-Governor and we are glad to be able to inform you that we have arrived at substantial agreement with him as regards the lines on which the new constitution of Burma should be framed, and that we are now able to lay before you a scheme which

in all its important features commends itself equally to the Head of the Province and to ourselves.

7. We accept in the first place the proposals of the Lieutenant-Governor that the title of the Viceroy should be altered to that of "Governor-General of India and Burma." Historically and geographically, Burma is only by accident a part of the Indian Empire, and we think that this alteration of the title of the Viceroy will be an appropriate means of recognizing its distinctive position. We are opposed, however, to taking any step which would prejudge the question of separation, and cannot therefore approve of the exclusion of Burma from the Indian Legislative Assembly, which measure would in our judgment be tantamount to recognizing that separation was inevitable at no distant date. Burma shares with India common system of taxation for central purposes and its exclusion from the Assembly which controls the allocation of the proceeds of taxation, could be justified only if it were treated as a temporary measure and as the prelude to early and complete separation. Burma is linked at present with India by many ties, foreign, military and commercial, which cannot be severed in the immediate future or till the conditions which make for union or separation are clearer than they are now. There is nothing in the present circumstances of Burma which necessitates an early decision and much which suggests the desirability of keeping an open mind in regard to a problem whose solution may depend so largely on future and unforeseeable developments. We may add that whilst the Lieutenant-Governor would still prefer that Burma should not be represented on the Legislative Assembly he does not now press strongly for its exclusion.

8. As regards the provincial constitution, we are in full agreement with the Lieutenant-Governor as to the impossibility of imposing on Burma a constitution on the Indian model. In our judgment the fact set out in the resolution and the letters of the local Government place this conclusion beyond reasonable doubt. In political development Burma is at least a generation behind India. Broadly speaking, the people of Burma have had no electoral experience whatever. Local Self-Government hitherto has been confined to a few municipalities and little advantage has been taken of even the limited facilities thus afforded; while the Burma Legislative Council has never up to the present time included a single elected Burman. In other spheres of national life the backwardness of the Burmans is no less marked. In commerce and in administration all the prominent positions are filled by Europeans and Indians. The total number of Burman graduates has not yet reached 400; not a single Burman has passed the examination for the Indian Civil Service; whilst even at the Bar Burmans have

been easily out-distanced by their Indian competitors. To impose on such a people a system of government in which persons without requisite training or capacity would be called on to assume unaided the highest responsibilities would be an experiment too rash for statesmanship to contemplate. We must take the facts as they are ; we must build on such foundation as actually exists and there are at present no foundations on which the elaborate structure of the Indian system could be superimposed. The new constitution should be framed on as generous lines as possible and should admit of progressive liberalisation with the growth of experience and capacity amongst the people. But it is equally essential that in framing it due account be taken of the political immaturity of the people. We are anxious that the advance towards responsible government should be as rapid as we can make it, but nothing will be gained in attempting to force the pace to an extent which ignores the governing conditions of the problem. India has had to pass through a long course of political training before it was found possible to confer on her the reforms which have now been embodied in the Government of India Act ; and though we hope and believe that in Burma this stage can be curtailed considerably, we do not think that it can be dispensed with entirely. We aim at giving the Burmans a control over the administration far larger than they have hitherto enjoyed, but before we can concede to them the same measure of responsible Government as we are about to confer on the Indian provinces, there must be an intermediate period of preparation and training. This conclusion appears to us to be entirely consistent with the recommendation of the Joint Committee. The term "analogous" employed by the Committee is doubtless in itself susceptible of more than one interpretation ; but the Committee have explicitly recognised the differences between India and Burma and we read it, therefore, not as connoting identity or even close similarity, but, rather, as indicating that in their opinion the Burmans should receive a constitution as liberal having regard to the relative political development of the province as that which has been granted to their Indian fellow subjects. We are confident that the proposals which we shall now proceed to describe will satisfy this condition.

9. We contemplate first a wide extension of local self-government on the lines proposed by the Lieutenant-Governor. We attach importance to this part of our programme of reforms, not only as a means of conferring control over local affairs, but also because it is on the local bodies that we must primarily rely for the development of administrative capacity and electoral experience amongst the people. The Municipal Act will now be extended to all urban

areas of any size and importance ; all municipal committees will be mainly elective and all almost entirely non-official ; and all municipal officials will be appointed by the Committees themselves. Such control, as it will still be necessary to retain, will thus be exercised in future from without and not from within. In rural areas much of the powers in local affairs hitherto exercised by the Deputy Commissioner will be entrusted to Circle Boards and District Councils. Circle Boards will be constituted from members elected by groups of village tracts and the electorate will comprise all residents in each group who are assessed to capitation tax or *thathamedu* or income-tax or who have been exempted from such taxation on grounds other than poverty. The District Council will consist of representatives elected by the Circle Boards and members returned by each Municipal area in the district. It will supervise and be responsible for the working of the Circle Boards, whose functions in the main will be those delegated to them by the Council ; and it will administer such local matters as vernacular education, sanitation, roads, etc. These measures will give Burma a system of local self-government as extensive and as liberal as that of any province in India.

10. The Burma Legislative Council was created in 1897. As first constituted, it consisted of 9 nominated members, 4 of whom were officials. In 1909 the membership of the Council was increased to 17 and in 1915 to 19. As late, however, as 1916 the only elected members of the Council were two Europeans, and the sole representative of the indigenous races were two Burmans, one Karen and a Shan Chief. Burma has thus never had a Council of the kind which was established in India by the Morley-Minto Reforms. In substance its Legislative Council has conformed to the pre-1909 type. It might therefore appear that the most natural line of advance would convert the existing Council into a Legislature in which the elected element would be about as large as in the present Legislative Councils of Bombay and Bengal. We have considered, but have rejected, a suggestion to this effect. We think that Burma has deserved and should receive a Legislature in which the elected members will have a substantial majority. Nothing less will satisfy the legitimate sentiment of the Burma people or provide that measure of popular control to which, despite their political immaturity, they can fairly lay claim. The proposals of the local Government fulfil this condition. They have been worked out with great care and we think they may be accepted as suitable and satisfactory. In their latest form they provide for a Council of 92 composed as follows :—

*A. Elected Members.*

1.	One district representative from every district that has a District Council	...	...	...	...	31
2.	Urban representatives	...	...	...	...	19
3.	Two elected members of the Burma Chamber of Commerce	...	...	...	...	2
4.	One elected member of the Rangoon Trades Association	...	...	...	...	1
5.	One representative of the Burma Educational Syndicate, and later of the University when established	...	...	...	...	1
6.	(a) One elected member of the European community, a European being defined as a person of European parentage on both sides	...	...	...	...	1
	(b) One elected member of the Anglo-Indian community	...	...	...	...	1
Total elected members						56

*B. Nominated Members.*

7.	(a) Twelve non-officials nominated by the local Government for races or interests inadequately represented by the elected members	...	...	...	...	12
	(b) One European member to represent one branch of commerce not represented by the elected commercial members	...	...	...	...	1
	(c) Three members (one Burmese, one Indian and one Chinese) to represent branches of commerce in which the Burmese, Indian and Chinese communities are specially interested	...	...	...	...	3
8.	Two experts, official or non-official	...	...	...	...	2
9.	Twelve Officials	...	...	...	...	12
Total nominated members						30

*C. Ex-officio members.*

Six members of executive council	...	...	...	...	6
GRAND TOTAL					92
or including the Governor					93

The elected members will thus form 60 per cent. of the Council, a proportion not far short of that prescribed by the Government of India Act for the Provincial Legislative Councils. We recognize the objections to the election of the rural representatives by the District Councils. As you are aware, we have never favoured the method of indirect election and have opposed its application to the Indian Legislative Assembly and to the Council of State. But in the case of Burma we see no alternative to its adoption. It is not possible, for the reasons explained in paragraph 24 of the local Government's letter of January 22, to base the electoral rolls on the assessments of land revenue and on the other hand the *thathameda* or capitation-tax rolls, which are the only materials available for the purpose, would yield a rural electorate of about 2,000,000,

The largest rural electorate proposed for any Indian province does not include more than 1, 300,000 voters in a population of 45, 000, 000. We could not recommend for a province which has as yet had no experience of elections even to a District Council, an electorate based on household suffrage; nor has the province the administrative machinery which would be required for the conduct of election in which the average number of voters in each constituency would be 64, 000.

11. We propose that the control of the Legislature over legislation should be the same as that exercisable by the Indian Provincial Legislative Councils. The power of the Government to ensure the passing of legislation regarded by it as essential should be secured by a provision on the lines of section 13 of the Government of India Act. Provision should also be made for optional and compulsory reservation of Bills as in section 12 of that Act. We consider, however, that the resolutions of the Council regarding the budget should have the effect only of recommendations to the local Government. We should not expect the Government to disregard, save for strong reasons, the clearly expressed wishes of the Council; but the function of giving or withholding the supplies necessary for the carrying on of Government is not one that can at the outset be entrusted to inexperienced hands and we think that for the present at any rate statutory control over the proceeds of taxation should not be conceded to the new Council.

12. We pass now to the structure of the Executive Government. The system of Boards, even in the modified form proposed in the local Government's letter of January 22, seems to us open to two criticisms. In the 1st place, the position of the Presidents would still be merely that of Secretaries to a local Government, entitled to refer matters to the head of the province, but not authorised to over-rule the heads of departments with whom they were to be associated. Secondly, it fails to satisfy the demand for a Governor in Council for which Burman opinion would certainly, and, we think, rightly press. On the other hand we are anxious to retain what we regard as the valuable feature in the system, *viz.*, the association with each non-official member of an official colleague. If there were men available amongst the Burmans capable of assuming unaided the duties of Executive Councillors, we should have had no hesitation in recommending the appointment of an Executive Council of the ordinary type and indeed in all probability of Ministers too. But there are in fact no such Burmans at present, nor are they likely to be forthcoming for a number of years yet; and it is not possible therefore to set up an Executive Council in which the

non-official members would be in sole charge of their departments. The solution is to be found in the division of the Executive Council into departmental committees. Our proposal is that the Government of Burma should in future consist of a Governor and an Executive Council and that the Executive Council should be divided into committees each of which would contain one official and one non-official member. The Lieutenant-Governor agrees that a Council of six members (which would absorb certain departmental offices, such as those of the Development and Financial commissioners) would be adequate, and we propose therefore that the strength of the Council should be fixed at this number, and that there should be three committees, one for home affairs and local self-Government, one for revenue and finance and one for development. As in the normal form of Council Government the Governor himself would administer certain subjects such as the Shan States, Frontier and Hill Tracts and the Army and Marine. The members of each committee would have equal powers; but the non-official member would be the senior member. In the event of any difference of opinion between the members of the committee, either member would be entitled to refer the question in issue to the Governor but—and here our scheme differs radically from that originally proposed by the Lieutenant-Governor—he would also, if not willing to differ to the views of the Governor, have the right to demand that the matter should be taken in full Council. Decisions in Council would be those of the majority but the Governor would have the emergency power conferred by section 50 (2) of the Government of India Act. For the present, at any rate, we recommend that one non-official be a European and that two should be Burmans. All members of the Council should be appointed by the Crown on the advice of the Governor and should receive the same pay which might suitably be fixed at Rs. 1,000 per mensem.

13. In the selection of non official members we would not restrict the field of choice to the elected members of the Legislature. It should be open to the Governor to recommend for appointment any suitable person, whether an elected member of the Legislature or not. But we would further lay down that an elected member of the Legislative Council should, if appointed to be a member of the Executive Council, resign his elective seat on the Legislative Council. Parliament has already accepted our view that it is impossible to reconcile amenability to the Legislature with the position of a member of an Executive Council. The attempt to combine responsibilities so incompatible could only lead to that particular type of dead-lock which was the cardinal weakness of the scheme of the five Governors. A dualism would at once be established, but of a parti-

cularly unsatisfactory type, since the two elements in the Government would have no separate spheres of work and would be liable to come into conflict over the whole range of their duties. When a stage has been reached in the political development of Burma at which the non-official members of the Council can be relieved of their official colleagues, the way will lie open for the appointment of full-blown ministers. Our scheme is designed only to meet the requirements of period of transition and training which still lies before us, and is consistent with whatever line of advance may be found to be the most promising. But it is none the less important that the Government to be set up in Burma should not prove unequal to the tasks which will confront it, and we can conceive of nothing more likely to imperil its chances of success than a form of dualism which would reduce the Executive to impotence.

14. This concludes our proposals for the new constitution. They differ in many respects, the importance of which we do not seek to minimise, from the scheme of reforms which has been approved for India. But we hold that the differences are no greater than the disparity in political conditions warrants. Relatively to these conditions the advance will be at least as great in the case of Burma as in that of the Indian provinces. Burma will secure at one stroke a wide extension of local Government, a Legislature in which the elected element will have a substantial majority and the control of legislation, and an Executive Government in which the official element will have only a bare preponderance. We believe that these reforms will be recognized as adequate and indeed generous by all moderate Burman opinion and we trust that they will commend themselves to your judgment.







